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INTERNATIONAL LAW

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BY

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AND THE

REVIEW OF LEGISLATION

EDITED BY

Sir CECIL T. CARR, K.C.B., K.C., LL.D.

THIRD SERIES VOL. XXXIII PARTS III & IV

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Let observation, with extensive view,
Survey mankind from China to Peru.
SAMUEL JOHNSON

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Washington University Library, St. Louis (per Stechert-Hafner, Inc.).
Wayne University Library (Michigan) (per Stechert-Hafner, Inc.).
Webber, George J.
Weise's Hofbuchhandlung (per Wm. Dawson & Sons, Ltd.).
Wesleyan College Library (per Stevens & Brown).
Wesleyan University (Middleton, Conn.) (per Stechert-Hafner, Inc.).
Western Australia, Crown Law Department.
Western Australia, Public Library (per Francis Edwards, Ltd.).
Western Australia University.
Western Reserve University Law School (Ohio) (per The Carswell Co.).
Western Reserve University Library (per Stechert-Hafner, Inc.).
West India Committee.
Wheare, Professor K. C.
Whitlock, J. W. (per Butterworth & Co.).
Williams College Library, Mass., U.S.A.
Winfield, Sir Percy.
Wisconsin State Library (per The Carswell Co.).
Wisconsin University Law Library (per F. B. Rothman & Co.).
Witwatersrand University (per Wm. Dawson & Sons, Ltd.).
Wolff, E.
Wolff, Henry J. (New York City).
Wortley, Professor B. A.
Wroclaw University (Poland) (per British Council).
Wyler, Marcus (Switzerland).
Wyser, K. H.

Yale Law Library (2) (per The Carswell Co.).
Yenching University Library.
Yugoslav Embassy.

Zanzibar, Registrar, High Court (per Crown Agents).
Zaphirou, G. Z.
Zepos, Professor P. (Greece).

ANNUAL REPORT

DURING the year 1950 the Society has extended still further the range of interest and of sympathy which it attracts overseas. The growing membership abroad has reflected this and the occasion of the Society's Dinner in Middle Temple Hall on July 18 in honour of the Executive Council of the International Bar Association, by bringing together so many overseas members of the Society, as well as representatives from the French Société de Législation Comparée, gave happy expression to these world-wide bonds of friendship. The Society has, in its turn, been represented at important functions abroad; by Professor Wortley at the Summer Meeting of the Rome Institute for the Unification of Private Law, and by Professor Lawson at the Semaine Internationale de Droit, held in Paris in October under the joint auspices of the Société de Législation Comparée and the Association Henri Capitant.

To the very great regret of the Executive Committee Lord Justice Cohen has felt himself compelled, having entered upon the very onerous duties of Chairman of the Royal Commission on Taxation, to resign the Chairmanship of the Society, which, in view of the expanded activities that are contemplated will require of its holder a considerable amount of his time and thought. The Society is indeed fortunate in these circumstances in being able to welcome Lord Justice Denning as its new Chairman and in retaining the services of Lord Justice Cohen as a member of the Executive Committee.

The death, on April 24, 1950, of Mr. C. E. A. Bedwell, the Honorary Secretary, who for thirty-three years had devoted so much care and thought to the Society's interests, came as a grievous shock to all its Members. At the moment of his sudden death he was preoccupied, as always, with plans for the future activities and well being of the Society. The Society are very fortunate in having as the new Honorary Secretary Mr. E. H. Wall, who kindly took on the work at short notice.

During the year the Committee have been very pleased to welcome to the Council His Excellency Mr. Philadelpho Azevedo (Brazil), The Rt. Hon. H. V. Evatt, D.Litt., LL.D. (Australia), Dr. B. R. Ambedkar (India), and The Hon. L. A. Rajapaksa (Ceylon).

The resignations from the Committee of Sir Cecil Hurst and of Mr. J. E. James, on account of age, have been accepted with the greatest regret.

The Committee itself has been strengthened by the agreement to serve upon it of Mr. C. W. W. Greenidge and Dr. V. R. Idelson.

The Committee wishes to place on record its gratitude to the Inner Temple, Lincoln's Inn, Gray's Inn, the Law Society, Imperial Chemical Industries, and Messrs. Lever Brothers and Unilever for the continuance of their grants towards the Society. To these names must this year be added that of the Council of the Stock Exchange from which the Society has gratefully received a grant.

The financial future of the Society, like that of many similar organisations in the post-war world, gives some cause for concern, owing to the continued rise in the cost of printing and publishing the Review of Legislation and the Journal of the Society. Steps are being taken by the Executive Committee which, it is confidently expected, will meet the situation.

SOCIETY OF COMPARATIVE LEGISLATION

Income and Expenditure Account for the Year Ended December 31, 1950

Expenditure.	£ s. d.	£ s. d.
Publication of Journal:		
Printing Vol xxxi, Parts 3 and 4	247 13 2	
Printing Vol. xxxii, Parts 1 and 2	379 10 3	
Postal Wrappers	8 2 6	
Paper for Journal	58 12 2	
		693 18 1
Salary of Clerk		290 0 0
Rent of Office		100 0 0
General Expenses		63 17 0
Stationery		29 3 2
Insurance		1 18 6
Telephone		4 11 9
Audit of Accounts		6 6 0
		£1,189 14 6

Income.	£ s. d.	£ s. d.
Subscriptions:		
General	597 13 4	
Government	158 19 11	
		756 13 3
Grants:		
Fiji Government	10 0 0	
Gray's Inn	21 0 0	
Imperial Chemical Industries	10 0 0	
Refund of Income-tax on I.C.I. Donation	8 3 8	
Inner Temple	21 0 0	
Law Society	10 10 0	
Lincoln's Inn	20 0 0	
Mauritius Government 1949	4 4 0	
Mauritius Government 1950	4 4 0	
Stock Exchange	3 3 0	
Unilever Bros.	4 4 0	
		116 8 8
Sales of Journal Back Numbers, Reprints, etc.	131 2 11	
Less: Cost of Reprints	27 15 4	
		103 7 7
Subscriptions in arrear paid during 1950		30 18 7
Subscriptions in advance paid during 1950		78 9 5
Interest on 2½% Defence Bonds		10 0 0
Balance, being Excess of Expenditure over Income for the year		93 17 0
		£1,189 14 6

SOCIETY OF COMPARATIVE LEGISLATION

BALANCE SHEET, DECEMBER 31, 1950

LIABILITIES.	£	s.	d.	£	s.	d.
Capital Fund as at 31st December, 1949	997	3	5			
Add: Valuation of Typewriter	10	0	0			
	1,007	3	5			
£1,007 3 5						

ASSETS.	£	s.	d.	£	s.	d.
Cash at Bank				313	0	9
Cash in Hand				3	12	0
Investment:						
£400, 2½% Defence Bonds				400	0	0
Furniture				60	0	0
Typewriter				10	0	0
Income and Expenditure Account 1949	126	13	8			
Income and Expenditure Account:						
Balance as per Annexed Account	93	17	0			
				220	10	8
£1,007 3 5						

We have examined the above Balance Sheet and Income and Expenditure Account with the Books and Vouchers of the Association, and certify them to be in accordance therewith. We have verified the Balance at Bank and also the Investment of £400, 2½% Defence Bonds.

LONDON, 48 Copthall Avenue, E.C.2.
March 15, 1951.

CASH, STONE & CO.
Chartered Accountants

INTRODUCTION

[*Contributed by* Sir Cecil Carr, K.C.B., K.C.]

As long ago as 1828 a writer in the *Quarterly Review* complained of "that indiscriminate rage for legislation on partial interests and peculiar topics and special emergencies which has in modern days contributed so much to the volume of our laws," and of "that extreme haste and carelessness of execution which has introduced into them so much complexity and confusion." In other words, there were too many Acts of Parliament; they were the wrong Acts; and they were badly drafted. Do the summaries of the laws of 1949* which this preface introduces evoke any echo of that early protest? They are careful not to criticise the merits of those laws; they are unable to illustrate the comparative proficiency of contemporary draftsmanship; but they are bound to show (as we shall all expect) the ever growing scope and volume of legislation.

Part of the purpose for which our summaries are collected is the exhibition of fresh types and topics of law-making, fresh patterns to be studied, fresh experiments to be watched. Finding, to take a minor instance, that in Cyprus no game licence is issued unless the applicant produces proof that he has destroyed at least six crows or six magpies, an Englishman might think the idea worth copying in a countryside where magpies and similar undesirables are a growing nuisance. When Britain passes a law to create national parks and nature reserves, it is safe to assume that she will first have examined the legislation of this kind already enacted in Canada and elsewhere. Often our contributors can refer us to the precedent which has been followed. The admirable Bills on such topics as evidence, contributory negligence or frustration of contract framed by the Conference of Commissioners on Uniformity of Legislation in Canada continue to be accepted by the provincial legislatures. Certain measures of law reform recently enacted in Britain are adopted overseas—for example, in Gibraltar and Sierra Leone. Conversely England now follows overseas precedents in abolishing the rule in *Russell v. Russell*. It is not suggested, of course, that legislatures indulge in large-scale imitation of one another's laws. Certain subjects (as we shall presently see) appear more frequently than others, but a high proportion of the problems are local and special, whether it be pipe lines for oil and gas in Canada, pearling in Western Australia, tribal arbitration or credit to natives in Kenya, United States bases in Trinidad, the prohibition of manillas (horse-shoe-shaped bars of metal) as currency in Nigeria, the removal of restrictions on temple entry in Coorg and Madras or the termination of the special provisions for the trial of Europeans in the Zanzibar and Somaliland protectorates.

The laws of a democracy are those which a majority of the people's chosen representatives think are wanted by, or will be good for, the people. The representatives must be chosen with full facilities for the exercise of the voter's franchise and in an atmosphere of calm. Australia arranges for the enrolment of aboriginal natives as electors, for postal voting and for the control of election posters. New South Wales provides mobile polling booths and mercifully forbids, for the last 70 hours before the poll, the circulation of electoral publications and the use of loud-speakers. Tasmania restricts on polling days not only the activities of canvassers and the distribution of "how to vote" cards and handbills but also newspaper comments and advertisements in respect of election issues. West Australia has some fresh provisions of election law, including a point as to candidates' residence. The Kingdom of Tonga revises the conditions of forfeiture of a candidate's deposit. In Britain the Parliament Act of 1911 is amended to diminish the House of Lords' power to hold up the measures passed by the House

* In a few cases a summary of the laws of 1948 is included, to make good an omission from last year's volume.

of Commons. New Zealand provides for a poll to ascertain the country's wishes as to military training.

The people, when they have chosen persons to represent them in the legislature, have by no means settled all the items of the legislation desired. They may be presumed to have asked for measures against the enemies of their country's prosperity and comfort. In 1949 there were laws against plant diseases in Victoria and Western Australia, coffee disease in the New Hebrides, cattle disease (brucellosis) in Saskatchewan, the rhinoceros beetle in Tonga, the lyctus insect (popularly known as the powder-post borer) which attacks wooden floors and furniture in Queensland, rats, mice, insects and mites in Great Britain and timber wolves in Manitoba. The people will expect laws to promote public health and to supply hospital and other treatment. In the campaign against tuberculosis Federal and State legislatures co-operate in Australia. In particular, some vigorous measures, including compulsory medical examination and segregation, are reported from Tasmania. Provision for mental health is widespread; in this field also there is co-operation in Australia. New South Wales has hospitals of the "farm colony" type; South Africa has "special schools" for the younger patients. The indigenous systems of Indian medicine are encouraged and regulated in Bombay and East Punjab. In Bombay unclaimed corpses are handed over to hospitals for the purpose of anatomical examination and dissection. Medical practitioners and nurses receive legislative attention in several countries, partly to define their share in national health services and partly to promote professional discipline. The fraud of bogus medical degrees is dealt with by Bihar. The qualifications and registration of physiotherapists and occupational therapists are prescribed in New Zealand. There is new law for veterinary surgeons in the Isle of Man. While on the subject of professional or vocational organization, we may note the provision for the bar in Quebec and Orissa, for advocates in South Africa, for the Law Society in Kenya, for compensating clients in Saskatchewan who suffer from their lawyers' misconduct, for chartered accountants in India, jute dealers in East Bengal, and ship-chandlers and bumboat-keepers in the Seychelles. What the people want in the matter of intoxicating liquor has sometimes to be ascertained by direct vote; New Zealand and Nova Scotia legislate for polls for this purpose. Bombay has re-stated its prohibition law, while in Britain the supply of liquor in the "new towns" tends to be nationalized and some new restrictions are imposed on "bottle parties" and on the employment of young persons under 18 in bars. Ontario is instituting research into alcoholism. Saskatchewan will admit to mental hospitals persons addicted to drink or drugs.

For what is sometimes described as "lawyers' law" there may be no articulate demand from the people. Madras deals with vexatious proceedings and also with treasure trove. Canada abolishes appeals to the Privy Council in London. The Union of South Africa reorganizes the judicial structure and provides for criminal appeals. Cyprus discountenances the return of a retiring judge to professional practice. In England and Scotland ambitious new schemes are initiated for free legal aid and advice, subject to a means test. New Zealand re-enacts a law for the enforcement of testamentary promises given by a deceased person in return for services rendered; after considering the claims of creditors, beneficiaries and next of kin, the court has discretion to award a reasonable sum or to order the vesting of specific property. Manitoba alters its law of dower to overcome a recent judicial decision. Victoria increases from £500 to £1,000 the surviving spouse's interest where a husband or wife dies intestate. Few statutes can have made more work for lawyers than those which interfere between landlord and tenant. Statutory rent control (now separated in Kenya from control of mortgage interest rates, its original companion) seems almost ubiquitous.

The universal shortage of housing causes the requisitioning of hotel rooms in Delhi to accommodate important persons and justifies the general control of hotels in Kenya. Next to rent restriction, marriage and divorce appear among the commonest subjects of legislation in the year under review. They are topics which

in England no Government is eager to handle; the approach to them cuts across the lines of party loyalties. Private members of the House of Commons, when not denied their constitutional right of introducing Bills, have been bolder. Sir Alan Herbert showed the way in 1937. Now in 1949, the right having been restored after a lapse of some ten years, three private members' Bills deal successfully with various aspects of marriage and family life, disregarding for once, the usual preoccupation of such Bills with the prevention of cruelty to animals. A personal Bill, introduced into the House of Lords for the particular benefit of the Mountbatten estates, finally emerged as a general Act for removing married women's restraint upon anticipation. South Africa's prohibition of mixed marriages and India's validation of inter-caste marriages will also be noted. Apart from these laws concerning husband and wife, the family, adoption of children and so on, other recurrent subjects are the encouragement of agriculture, the re-defining of nationality within the Commonwealth, the concession of diplomatic privileges, control of radio-active substances, trade unionism, work and wages, arbitration and conciliation in industrial disputes, pensions and superannuation and various progressive developments in social services provided by the State.

In the course of some papers on legislative technique, written nearly a century ago, George Coode observes that there are periods when almost all the laws of England are temporary. "During the last European wars," he says, "especially from 1803 to 1815, the great bulk—at least nine-tenths—of the matter of our Acts of Parliament was provisional; not nearly one-tenth of the legislation of those still recent years has survived in effect to this day." Two World Wars are within the compass of our modern memories; with an unforgettable experience of blank-cheque methods of delegated legislation, we can envy our predecessors who managed to fight Napoleon with a simple reliance on the direct law-making of Parliament and who (for all, at any rate, that Miss Austen's novels tell us) suffered little from sub-statutory controls. If Coode were writing today, he might have to record that the legislation of the 1939 war was not so provisional. Some countries seem threatened indeed, as recent commentators have remarked, with legislative conditions of "permanent emergency." A nation must, of course, protect itself against attacks which imperil its existence. These may be from within as well as from without. New South Wales, Victoria and Kenya have adopted something like the Emergency Powers Act which the United Kingdom passed in 1920. India is concerned with the production, supply and distribution of "essential commodities," Madras with the control and requisitioning of "essential articles." Australia sanctions the deportation of war-time refugees. Coorg sets up an Advisory Council to review cases of detention, thus recalling the operation of Britain's now discontinued Defence Regulation 18B. Britain in 1949 has no occasion for a Supplies and Services Act to prolong and amplify the surviving war-time powers of the Executive. Some might infer that the year brought her no special crisis, economic or otherwise; impartial observers have sometimes thought that the Executive in Britain produces an emergency statute in order to convince the public of the existence of an emergency; the periodical embroiderings of the permitted objects of her emergency legislation can hardly be wider than the unlimited scope conceded by Parliament in 1940 when Defence Regulations were authorized to require persons to place "themselves, their services and their property" at the disposal of His Majesty. Several countries legislate in 1949 for the preservation of public order. Australia restrains the unauthorized use or possession of uniforms and emblems. Orissa has a censorship of publications. In this connection Fiji's Press Correction Ordinance deserve mention; if the authorities consider a newspaper item to be false or distorted, they can require a correcting statement to be published. For more normal needs of official publicity the Republic of Ireland incorporates an Irish News Agency.

In the field of criminal law and punishment we find corporal punishment restricted in Somaliland; it is abolished in Uganda except for robbery and sexual offences, in the Kingdom of Tonga except for second or subsequent offences of

theft and the like, and in the Leeward Islands except for juveniles and offenders against prison discipline. Among statutory elaborations of criminal law Canada punishes the sale of magazines, periodicals or books which exclusively or substantially depict the commission of crime. Creating a disturbance in hotels is dealt with by Saskatchewan. Kenya amends its penal code so as to authorize the forfeiture to His Majesty of any aircraft, vessel or vehicle used in the course of committing an offence. Another amendment allows a charge of murder to be reduced to manslaughter if life is taken in the heat of passion caused by sudden provocation; this last word is defined to cover a wrongful act or insult of such a kind as to deprive an ordinary person of self-control and lead him to assault the provoker. Our summaries contain references to infanticide in the Republic of Ireland, incest in the Seychelles, bigamy in Bombay and Madras, drug advertisements in Sind, and opium-smoking in Bombay and East Punjab. In Cyprus it is an offence to stir up ill-will between two communities or classes of the population, in Uganda to collect public subscriptions without publishing proper accounts, and in British Guiana to give false information to a public servant with intent to cause him to use his lawful power to a third party's detriment.

As usual, there is diversity in the treatment of gambling and racing. East Punjab forbids every kind of bet or wager, whether on a horse race or not; Madras forbids betting on horse races (even within race enclosures) and the publication or sale of racing information likely to encourage it. In New Zealand professional tipsters are still prohibited, though there is a saving for the racing correspondents of newspapers; a Totalizator Agency Board is incorporated and the former restriction on publishing totalizator dividends is repeated; New South Wales controls the aerial broadcasting of racing news and deals with mid-week horse, pony and greyhound racing. The Union of South Africa enlarges the powers of provincial councils to prohibit dog racing and, by its Sports Pools Act, makes schemes illegal which offer prizes for forecasting the results of sporting events. Kenya similarly restricts pools in cases where the Governor in Council has gazetted a notice that there is a pool.

Among prevalent causes of modern legislation the internal combustion engine takes a high place. Motor traffic needs big new roads and arterial routes on much more than a parochial scale, whether they are called "special roads" as in Britain, "main roads" as in New South Wales, or "trunk highways" as in Manitoba. It needs safety measures and compensation for the motorist's victims. The owner of a vehicle must answer questions by the police about the identity of the driver at the time of a traffic offence in New South Wales. In Manitoba the lighting equipment of vehicles is prescribed and the driver's view of the road protected; no non-transparent material is to be stuck upon his windows. Left-side steering is discouraged in the Orange Free State where the rule of the road keeps traffic to the left.

We have come a long way from the era when the arts could be left to the stimulus of private patronage and benefaction. Britain makes a handsome grant (subject to Treasury supervision) for a Shakespeare Memorial Theatre in London, as well as preparing for the expenditure of the Festival Year of 1951. Tasmania has a National Theatre and Fine Arts Society Act and promotes the celebration of the 150th anniversary of the settlement. In Saskatchewan an Arts Board is to stimulate music, drama, literature and the other arts, while a Western Development Museum Board will help to record the story of Western Canada. In the same province there will be special aid for students. New library services are reported from the Cape Province, the Gold Coast, and Trinidad and Tobago where generous support from the Carnegie Corporation is acknowledged. The Boy Scouts are subsidized in St. Lucia. Universities are founded or fostered in many countries. There are references to the Utkal University in Orissa, to that of Dacca in East Bengal and to the three new foundations incorporated in Bombay, one of them devoted to the higher education of women. Independent university status is conferred on the colleges of Natal and the Orange Free State and on what

was formerly the Rhodes University College. New South Wales creates a University of Technology; Quebec makes a grant to McGill.

Not to prolong the catalogue of legislative efforts, each of which may be studied in its own context in the summaries which follow, may we turn for a while towards the general subject of legislative form? These introductory pages began with a quotation from the *Quarterly Review* of 1828 which reprehended the haste and carelessness displayed in the law-making of that date. The contributors of our summaries, themselves often the experts responsible for the framing of the laws, tell us something of the modern developments. Of all the tools of the draftsman's trade none is more essential than an Interpretation Act which will abbreviate cumbrous references and prescribe uniform rules of construction. The Isle of Man has such an Act in 1949, and Kenya has re-written its often amended Interpretation and General Clauses Ordinance. A glance backward through the 19th century will remind us how intermittent was the progress in improvements of this kind at Westminster. Bentham, offering practical remedies for the "over-bulkiness" of statutes, attacked *inter alia* the reiteration of such surplusage as "person or persons." Words importing the singular, he insisted, should include the plural, and the point should be settled once for all. In 1827 Parliament enacted that, in statutes relating to criminal offences, the singular should include the plural (and vice versa) and the masculine gender should include females. The extension of this simple principle to all statutes was one of the features which Arthur Symonds inserted in his proposed Statute of Constructions when he published *The Mechanics of Law-making* in 1835. He remarks that Acts of Parliament have become less verbose since it became the practice not to use plural words as well as singular, but he adds that the practice is not yet uniform. In the following year, when John Duer, counsel and advocate of New York, explained to a Select Committee of the British House of Commons how the laws of his State had been re-compiled during two sessions specially summoned for that sole purpose in 1827 and 1828, he mentioned that the new code included one statute which had brought together all necessary definitions and had embodied Bentham's recommendations as to number and gender. The example of New York was not followed in England until those recommendations (amongst others) were made law in Brougham's brief Act of 1850 "for shortening the language used in Acts of Parliament." Though Brougham declared his Act to be so paltry an improvement that "the great Bentham would have derided it as 'mock reform'," its reception was not wholly friendly. In the very next year a Bill was introduced to repeal it on the ground that it "may not in fact tend to shorten such language and may produce difficulties and doubts as to the construction of Acts of Parliament." The repealing Bill made no headway, but in 1854 Bellenden Ker, a protégé of Brougham and the head of the temporary Statute Law Commission, spoke of the 1850 Act as unsuccessful. One of his colleagues, Fortescue Brickdale, offered detailed criticism of its sections; he accused the Act of encouraging draftsmen to be careless; anyhow, he argued, Instructions to Draftsmen were out of place in the statute book. "Acts of Parliament may, no doubt, be passed to dispense with the use of certain often recurring phrases and to introduce what has been described as 'parliamentary shorthand'; but surely it is undignified and trifling to put the Imperial Legislature in motion for the purpose of turning its own decrees into ungrammatical enigmas, and all for the sake of effecting minute economics of words in one or two isolated points." Taking the statutes of the 1851 session, Brickdale found that draftsmen had largely disregarded Brougham's Act; they had continued to define words to which it had given a meaning, and they still indulged in the surplusage of singulars and plurals and masculines and feminines. In spite of these criticisms, however, the Act of 1850 held the field until replaced in 1889 by the more comprehensive Interpretation Act which the United Kingdom draftsmen use today—itself presumably in need of modernization sixty years later. The Scots can take credit for an instalment of legislative interpretation secured as early as 1839 when the word "shire" was allowed to include

a stewartry and "sheriff" to include a steward. Ireland was less successful. In 1891 an Interpretation (Ireland) Bill, furnishing statutory meanings for references to "Lord Lieutenant in Council," "constable" (to include the R.I.C.) and "resident magistrate," was lost although brought in by the Attorney General for Ireland and Mr. Arthur Balfour. Earlier, in 1880, a Bill to define time in statutes (as meaning Greenwich mean time in Great Britain and Dublin mean time in Ireland) had managed to pass. What would the modern draftsman do without his "parliamentary shorthand"? The legislators of the Church Assembly in England found it necessary to pass an Interpretation Measure in 1925. If this digression into technical development has suggested that progress was tortoise-like in the United Kingdom, there is at least one instance of early success elsewhere. Verona arranged for the masculine gender to include the feminine as long ago as 1507.*

Words, under the Rule in Humpty Dumpty's Case, have to mean what the draftsman chooses them to mean, though sometimes a court is called upon to say how much more they mean or how much less. In Madras and in Calcutta a pedal-propelled rickshaw is henceforth deemed a hackney carriage—a statutory result perhaps more natural than the recent magisterial decision in London that roller skates are a vehicle. Western Australia amends its Footwear Regulation Act to make clear that "shoes" includes slippers and sandals but that "sole" does not include thread, wax, nails and toe plates. Legislators must not ignore the social significance of changes in verbal meaning. In England the references to the "working classes" begin to disappear from Housing Acts. Some countries speak of "workmen's," others of "workers'," compensation. Kenya has changed "servant" to "employee" in its Employment Ordinance, as well as substituting "African" for "native." The elimination of words like "lunatic" continues; "criminal lunatic" is no longer to be used in Scotland. "Massage" and "masseur" obtain fresh dignity as "physiotherapy" and "physiotherapist" in New Zealand.

It is not only words that suffer obsolescence. In Britain the piece-meal method of amending the law leaves many a statutory provision to die almost unnoticed and to require formal burial. If there had been any recent conviction for high treason in Scotland, the barbaric sentence of drawing and quartering could hardly have survived to be specifically repealed in the course of a comprehensive Criminal Justice (Scotland) Act in 1949. In England this ancient punishment for high treason was ended by the Forfeiture Act in 1870 (the humane efforts of Romilly having been only partially successful in 1814); the punishment of women by burning to death in cases of high treason had been repealed in 1790. But several references to such obsolete features as benefit of clergy, placing in the stocks, transportation and the like were not eliminated from the English statute book till 1948. If Francis Bacon had had his way, a commission of "twelve lawyers and twelve gentlemen of experience in the country" would long ago have undertaken "the review of penal laws and the repeal of such as are obsolete and snaring, and the supply, where it shall be needed, of laws more mild and fit for the time." In default of any such periodical review the Parliament at Westminster has been dealing piecemeal with the penal laws, archaisms and all. Bacon's other project, "to survey all the statutes and to draw all the statutes concerning one matter into one plain and perfect law"—what we know as consolidation—makes progress everywhere. Noteworthy examples in 1949 are Canada's bankruptcy law and New Zealand's law of transport. Almost always the preliminary Baconian survey reveals ambiguities and discrepancies which have first to be remedied. The Republic of Ireland revises its fishery enactments with a

* "Since under the authority of the civil law disastrous mistakes sometimes occur, we ordain that in all statutes of the community of the City of Verona the masculine gender is to include the feminine if the context allows application to both alike" (translated from a footnote to Daines Barrington's *Observations on the More Ancient Statutes* [1766], at a passage commenting on the words *nul homme ne feme* in an Act of 1337).

view to consolidation. The newly established Joint Statute Law Committee of Victoria will encourage similar improvements of the statute book. In the United Kingdom, where more than a quarter of the pages enacted in 1949 consisted of consolidating Acts, the Statute Law Committee secured the passage of an ingenious measure which, by the use of delegated legislation, expedites non-controversial corrections and adjustments of former laws prior to consolidation.

Another item in Francis Bacon's programme was "to discharge the books of those statutes where the case by alteration of time is vanished." Both Bombay and West Bengal have a Repealing and Amending Act for getting rid of laws today found to be unnecessary, spent or expired, as well as for setting right those printing errors which—no matter how much care be taken—creep into legislative texts. In Britain, where the death duties are drastically simplified, an end is made of some queer old taxes for which the case has vanished. The tiresome land tax of 1692, haphazard in its modern application and yielding a sum negligible in proportion to the cost of collection, is liquidated. Several anachronistic excise duties (such as the tax on the appointment of a game-keeper) are ended both in Great Britain and in Northern Ireland.

Consolidation and expurgation are ends in themselves. Without them the law remains difficult alike to understand, to obey and to enforce. They are also a means to an end, namely to the re-compilation and official publication of the law as a whole. Kenya arranges for a revised edition of its laws, to be prepared by a specially appointed Commissioner; British Guiana does the same; so does Gibraltar where the Attorney General is to be the Commissioner, with power to omit certain enactments. Trinidad and Tobago deal similarly with the ordinances of the colony and also (for the first time) with its subordinate legislation. Bacon, to quote him once more, contemplated a revised edition of the statute law of England, the work of some expert Commission. Bellenden Ker, a century ago, insisted that this was "no longer proper employment for a Royal or Parliamentary Commission"; he meant presumably that Parliament would no longer be willing to entrust the final formulation of the law to any external body. The big instalment of consolidation in Britain in 1949 was part of the intensive preparation for the official publication in 1951 of the thirty-two volumes of the third edition of Revised Statutes of the United Kingdom. But this is an edition of statutes in chronological sequence in the form in which Parliament has passed them, not one of expert re-compilations, subject by subject, which are adopted and accepted under general authorization, prospective or retrospective.

Wise men have cherished schemes for the automatic revision of the written law. Locke's Constitution for Carolina was to bring all legislation to an end after a hundred years "to avoid multiplicity of statutes which by degrees always change the right foundations of the original government." Arthur Symonds, criticizing some recent Acts of 1834, thought it worth while to consider whether all laws should not be temporary. "It would give opportunity of consolidating on the general fabric all the casual improvements. Each year might have its peculiar branch of duty, to prevent the entire mass from crowding on the attention of the legislature at once." Sir William Blackstone, he added, warmly commended this plan. But legislatures, nowadays mostly overworked, are too busy with day-to-day preoccupations; the legislator is interested in the substance, not the form, of the law. Equally vain are the layman's visions of a complete code or digest compressed into a single portable volume. In his *Life of the King of Prussia* Samuel Johnson referred to the *Code Frédérique*. It was composed, he said, in one volume of no great bulk "and must therefore unavoidably contain general positions to be accommodated to particular cases by the wisdom and integrity of the courts. To embarrass justice by multiplicity of laws or to hazard it by confidence in judges seem to be the opposite rocks on which all civil institutions have been wrecked and between which legislative wisdom has never yet found an open passage."

We must not pause to admire that characteristically phrased antithesis, to

challenge the defeatist conclusion or to wonder what sort of a parliamentary draftsman Dr. Johnson might himself have been. Sonorous and majestic language quitted the English statute book when preambles (described by Bentham as the most unmerciful of all instruments of longwindedness) disappeared. The humdrum matter-of-factness of the Coast Protection Act, 1949, for instance, has no room for the recitals which embellish its Tudor predecessor.* The writer in the *Quarterly Review* of 1828, to cite him for the last time, spoke of having once heard an eminent lawyer declare that a clause of an Act of Parliament in which the arrangement of words was the best possible "gave him as much pleasure in the perusal as the finest stanza of Spenser." All the faults of statutory form and style, wrote Fortescue Brickdale in 1854, were purely literary faults. The simple remedy for draftsmen was "to use a plain and concise style, to choose with care the proper words to express their meaning and never to use a word that is not wanted, and, above all, to assume that they are writing for persons of ordinary candour and intelligence and not (as is now the practice) to think it necessary to provide in terms against every foolish and unworthy quibble that unfair or unreasonable persons may possibly suggest." While thanking once more in this final sentence the judicious writers of the summaries which follow, may we ask if their experience encourages them to ignore the quibbles of unfair or unreasonable interpretation?

* . . . nothing earthly so highly esteeming as the advancing of the common profit, wealth and commodity of this His Realm, considering the daily great damages and losses which have happened . . . by reason of the outrageous flowing surges and course of the sea. . . ." (23 Hen. 8. c.5).

I. BRITISH ISLES.

1. UNITED KINGDOM.

[*Contributed by* Sir Cecil Carr, K.C.B., K.C.]

During 1949 the Parliament at Westminster enacted ninety-three public general statutes in a session which managed uniquely to bracket three regnal years—12, 13 and 14 Geo. 6. For the first time for 10 years Private Members had a chance to introduce their own Bills in the House of Commons; five of these received the Royal Assent; eighteen others, ranging from the abolition of cock-fighting and "blood sports" to spelling reform and the repeal of censorship of plays, made insufficient headway.

A few temporary Defence Regulations were replaced by permanent statutes.

Improvement of the Statute Book.—Lord Jowitt's encouragement of statutory consolidation shows results particularly timely in view of the impending appearance of a Third Edition of Revised Statutes. If the two volumes of Acts of 1949 occupy nearly 2,300 pages, more than a quarter of that bulk consists of orderly and well-drafted re-statements of existing law. Here is the list of consolidating Acts:—

Agricultural Wages (Scotland) Act (c. 30);
House of Commons (Re-distribution of Seats) Act (c. 66);
Civil Aviation Act (c. 67), excluding the Carriage by Air Act, 1932, and the enactments containing the constitution and functions of the Airways Corporations;
Representation of the People Act (c. 68), covering both parliamentary and local government elections, corrupt and illegal practices and election petitions (a clever arrangement of the Second Schedule keeps the Parliamentary Election Rules throughout on the left hand, and those for local government elections on the right-hand page);
Agricultural Holdings (Scotland) Act (c. 75);
Marriage Act (c. 76), repealing and replacing seventeen Acts wholly and fifteen partly, and bits of Church Assembly Measures;
Patents Act (c. 87);
Registered Designs Act (c. 88);
Vehicles (Excise) Act (c. 89);
Election Commissioners Act (c. 90); and
Air Corporations Act (c. 91).

It may seem a simple process to frame these re-statements, but it is far from being a mere matter of scissors and paste. Surviving archaisms and recurrent changes of circumstances and of meaning may give trouble. There may be ambiguities; on the Representation of the People Bill, for instance, the Joint Committee had to take the opinion of the Law Officers. If uncertainties cannot be removed, the draftsman may have, as Sir Courtenay Ilbert has explained, to "consolidate the doubt." A consolidating Bill can seldom be guaranteed to be pure consolidation; if it involves any element of amendment, however small, the draftsman's candour compels him to disclose the fact, with the probable result that M.P.s will propose other amendments of their own and thereby wreck the Bill's prospect of a smooth passage. To meet this notorious difficulty the Consolidation of Enactments (Procedure) Act propounds an ingenious remedy (c. 33). When any consolidation is undertaken, the Lord Chancellor may lay before Parliament a memorandum of such "corrections and minor improvements" of the law as he thinks expedient "in order to facilitate consolidation." Public notice is given of the memorandum which remains before Parliament

for a month, and representations are invited thereon. The Bill and the memorandum then go foward together to the Joint Committee of both Houses to which consolidation Bills are always referred. If the Committee, after considering any representations, approve the proposals in the memorandum (with or without amendment), and if the Lord Chancellor and the Speaker also approve (all three of these authorities must be satisfied that the corrections and minor improvements do not effect any changes in the existing law of such importance that they ought to be separately enacted by Parliament), then the approved modifications are deemed, for the purpose of the consolidation Bill but not for any other purpose, to have become law as if made by Act. There is a tightly-drawn definition of "corrections and minor improvements," their effect must be confined to resolving ambiguities, bringing obsolete provisions up to date or "removing unnecessary provisions or anomalies which are not of substantial importance."

Commonwealth Relations.—The earlier (c. 22) of two British North America Acts recites the referendum whereby a majority of the people of Newfoundland signified the wish to enter into confederation with Canada; the terms of union are scheduled to the Act and confirmed. The second (c. 81) enlarges the legislative authority of the Dominion. When the Statute of Westminster was enacted in 1931, the special position of Canada in relation to the long-established allocation of powers between Federal and Provincial legislatures was preserved. At intervals small changes have been made by statute enacted at Westminster, at the express request of the Canadian Parliament, in the Constitution of 1867; and now section 91 of the 1867 Act (which enumerates the powers of the Federal legislature) is re-written.

The Ireland Act (c. 41) recognises a secession from the Commonwealth. Section 1 declares that, as from April 18, 1949, "the part of Ireland heretofore known as Eire" ceased to be a part of His Majesty's Dominions. In any future enactment or instrument that part may be "referred to by the name attributed thereto by the law thereof, that is to say, as the Republic of Ireland." The Republic is nevertheless not to be a foreign country. Northern Ireland is declared to remain part of H.M. Dominions and of the United Kingdom, and—

> "it is hereby affirmed that in no event will Northern Ireland or any part thereof cease to be part of His Majesty's dominions and of the United Kingdom without the consent of the Parliament of Northern Ireland."

Among the transitional provisions one section deals with the British Nationality Act, 1948, and another with the three-months' prior residence which qualifies for the franchise in Northern Ireland.

That is not the only anomaly. "Whereas on the 26th day of January, 1950, India is to become a republic while remaining a member of the Commonwealth," a short India (Consequential Provisions) Act follows that preamble with a declaration that (until the contrary is provided) the existing law will have the same operation "in relation to India and to persons and things in any way belonging to or connected with India as it would have had if India had not become a republic" (c. 92). There is the inevitable power to adapt existing laws by Order in Council.

A conference in London in 1945 considered the future organization of the external telegraph services of the Commonwealth. Its recommendations, already in part carried out in the Cable and Wireless Act, 1946, received more complete attention in the Commonwealth Telegraphs Agreement of 1948. This agreement arranged for establishing a Commonwealth Telecommunications Board and for the nomination by each "partner Government" of a "national body" to acquire the assets of the operating companies and to maintain the external services. The Commonwealth Telegraphs Act (c. 39) sets up the Board and defines its functions as regards the formulation of a joint policy, co-ordination of systems, research, interchange of staffs, purchase of patent rights, and so on. The Post Office, as the United Kingdom's national body, will take over the Cable and Wireless

Company's interests in land in Great Britain; sums up to four millions may be paid by way of compensation. Some technical clauses arrange for the pensions and compensation of the Company's employees. There is power to wind up and replace the system of pooling telegraph revenue agreed between the Post Office and the operating company under the Imperial Telegraphs Act, 1938.

Fresh grants or guarantees are authorized by the Colonial Development and Welfare Act (c. 49); the Colonial Loans Act (c. 50) and the Overseas Resources Development Act (c. 65). Colonial territories could already float their own internal loans, but the two last named Acts enable the Treasury to guarantee loans by the Bank for International Reconstruction and Development.

International Affairs.—The Consular Conventions Act (c. 29) defines the authority of consular officers in relation to the property in England or Scotland of deceased persons. It also restricts the power of entry into consulates. Short of the complete inviolability enjoyed by an embassy, consulates will be protected from the entry of constables or persons executing warrants or other legal process; there is a saving for entry to extinguish fires, for entry by constables having reasonable cause to believe that a crime involving violence has been, is being, or is about to be, committed there, and for entry by virtue of any easement, contract or other private right. These provisions will apply to foreign States specified by Order in Council as having concluded reciprocal conventions for these purposes with His Majesty. There is also a minor extension of consular powers under the Merchant Shipping Acts.

An International Convention for the Safety of Life at Sea, superseding that of 1929 which was scheduled to the Safety and Load Line Act of 1932, was signed in London in 1948 on behalf of His Majesty's Government and some thirty other nations. The Merchant Shipping (Safety Convention) Act, in part replacing the temporary Defence Regulations 45AA and 48B, enables effect to be given thereto (c. 43). Thereunder the Minister of Transport may make—

"construction rules" as to British passenger steamers' hulls, equipment and machinery;

"rules for life-saving appliances," dealing with rafts, lifejackets, lifebuoys, manning of lifeboats, boat drills, distress signals, etc.;

"radio rules," for radio installations, services and operators and the keeping of radio logbooks, etc.;

"rules for direction finders";

rules prescribing requirements of radio-navigational aids;

rules for passenger steamers respecting watertight bulkheads and openings in hulls; and

rules regulating the carriage of dangerous goods in ships.

The Act deals further with various forms of safety certificates and exemption certificates and with surveys and fees. H.M. in Council may prescribe what signals of distress shall be used by ships, and the Minister's rules may prescribe the circumstances and purposes for using or revoking those signals. Section 22 specifically obliges the master of a British ship, on receipt of a signal of distress or news that a vessel or aircraft is in distress, to proceed with all speed to its assistance (informing the persons therein, if possible, that he is doing so) unless in the special circumstances of the case he considers it unreasonable or unnecessary or unless released by being informed that other ships are so proceeding or that assistance is no longer required. There are special provisions for grain cargoes. The Minister is authorized to contribute towards the North Atlantic ice service, which includes study and observation of ice as well as the ice patrol.

The U.S.A. Veterans' Pensions (Administration) Act enables the Minister of Pensions to pay within the United Kingdom the money provided by the United States under their laws for the benefit of ex-Servicemen who happen to be resident in the U.K. (c. 45). Those laws require the Administrator of Veterans' Affairs, where the dependent is a minor or a person under any other legal disability, to

make the payment to the legally-appointed guardian or other proper representative. Sometimes these dependents had no legally-appointed guardian; if so, the Minister of Pensions, who has the appropriate machinery, will act as trustee. There is naturally a stipulation that, if the beneficiary dies here, the money cannot escheat to the British Crown.

Machinery for handling the generous aid furnished by the U.S.A. and for passing on a portion of it to other countries is provided by the American Aid and European Payments Act (c. 17). It gives statutory backing to provisions of the Economic Co-operation Agreement of 1948 (a bilateral agreement between America and Britain) and of the Paris Agreement for Intra-European Payments and Compensation. There are to be two Treasury accounts, the already opened Special Account and a new Intra-European Payments Account.

Constitutional Law.—A one-page Parliament Act (c. 103) amends the Act of 1911 by reducing from two years to one year the period of delay which the House of Lords could impose upon Bills sent up from the House of Commons. Previously the Lords could place a suspensory veto upon a Commons Bill for the last two years of the five-year period of a Parliament's full life. The Labour Government was running no risks with any 1949 Bill such as that for nationalizing iron and steel. The Bill which was the origin of this Parliament Act of 1949 was the third Bill to have been rejected by, and to have been passed over the heads of, the Lords under the Act of 1911.

Reference has already been made to the consolidation of groups of Acts concerning the law of elections and kindred matters. In the interests of economy the Electoral Registers Act (c. 86) abolishes the autumn register of electors, saving some £650,000 apiece to the Exchequer and the local authorities. This recalls like action taken in 1926. In 1946 the Oliver Committee advised a return to the system of two registers a year; the 1948 Act so provided, but now Britain reverts to the single register. Consequential modifications are needed in the Juries Act of 1922, because the autumn register was used for preparing the jurors' books.

One of the worst blots on the English statute-book is the scattered jumble of enactments which inflict heavy penalties on M.P.s who sit and vote when disqualified. In 1949 a House of Commons (Indemnification of Certain Members) Act has to come to the rescue of three (c. 46). Two had possibly made themselves vulnerable as having held an office of profit under the Crown within the Act of Anne, inasmuch as they had been nominated by the Crown to membership of the General Medical Council, even though the sums they received for this service were paid out of the registration fees collected from medical practitioners. The third had been a partner in a firm which had supplied the Home Office with some equipment, and thus was possibly caught in the toils of an Act of 1792 as concerned in an "agreement made for the publick service."

Defence.—A new Colonial Naval Defence Act (c. 18), enlarging that of 1931, allows the legislature of a colony to join with other colonies in raising forces for naval defence "within the territorial waters of all or any of them." Thus an inland colony will be able to combine with a seaboard colony in establishing a joint force within the territorial waters of the latter. It is made clear that territorial waters will include inland waters—for example, Lake Victoria or Lake Nyasa. The law will apply to any territory in which His Majesty has jurisdiction (other than one administered by a self-governing Dominion) and to any group of territories "where there is a common legislature for the group with power to legislate for defence." The East African Central Assembly, including Kenya, Uganda and Tanganyika, affords an illustration.

More simplification is effected by the Auxiliary and Reserve Forces Act (c. 96). It modernizes the arrangements of Territorial and Auxiliary Forces Associations, making it possible, for instance, to amalgamate two such associations and introducing the direct representation of the Cadet Forces and of

other ranks besides officers. Secondly it improves and expedites the process of calling up. The liability of the Territorial is re-stated. Under section 5 (whereof the marginal note speaks of "home defence service") he becomes liable (a) to serve anywhere in the United Kingdom, (b) to be called out to actual military service in defence of the United Kingdom against actual or apprehended attack, notwithstanding that the Territorial Army has not been embodied, and (c) if it has been embodied, to serve anywhere oversea. The Auxiliary Air Force receives the prefix "Royal". A special class of Royal Fleet Reserve is created. A man in that class will be liable to be called into actual service whenever "war-like operations are in preparation or in progress outside the United Kingdom," but not for longer than twelve months in all unless with his written consent.

The usual Army and Air Force (Annual) Act keeps the Army Act and the Air Force Act in force for another year with minor amendments (c. 28). It becomes possible for soldiers who have been sentenced to detention in a detention barrack or in military custody to serve their sentence in air force custody—a reciprocal arrangement. A new section 67A, empowering the arrest without warrant of "persons unlawfully at large," corresponds with the law for the ordinary citizen under the Criminal Justice Act. The period during which a man is unlawfully at large is not to be reckoned as part of the period of detention.

Sequelae of the War.—To collect and realize "German enemy property" and to allocate the proceeds, the Distribution of German Enemy Property Act (c. 85) relies upon Orders in Council. They may arrange for the Board of Trade to appoint an administrator (a corporation sole) to and in whom the property may be transferred and vested, for claims to be made and determined in respect of "German enemy debts," for charging fees and for disposing of sums which, "by reason of a failure to discover the whereabouts of persons to whom the sums ought to be distributed or for any other reason it is not practicable to distribute." Other provisions deal with conflicting claims (as between the British and other Governments) and with German property in a colony and protectorate.

Public utilities and some other undertakings (e.g. mines, quarries and brick-works) were excluded from the War Damage Acts of 1941 and 1943 either because no assessment was available or because their land, as in the case of a railway's permanent way, could not easily be severed from their goods.[1] The excluded undertakings had paid no contributions and got no compensation. The War Damage (Public Utility Undertakings) Act fills that gap (c. 36), it secures payment in of the contributions and premiums and it pays out for damage suffered. The drafting of this highly technical Bill was praised by Lord Simon in the Second Reading debate in the Lords.

Under the War Damaged Sites Act (c. 84) local authorities can take leases of sites which they wish to tidy up; alternatively, with the sanction of the appropriate Minister, they can acquire them compulsorily. The powers are limited to five years in the first instance, but tenure can be extended for another five. Local authorities, having taken the land, must put it in order; if necessary for the amenities of the neighbourhood, they may carry out work without taking possession. They may dispose of rubble as they think fit. There are penalties for depositing rubbish on war damaged sites.

State Monopolies.—The controversial Iron and Steel Act (c. 72) transfers into public ownership the securities of existing shareholders in all the companies named in its Third Schedule—namely, those which, on the average of the years 1946 and 1947, produced certain scales of output; smaller firms are for the present left outside. A public body, the Iron and Steel Corporation of Great Britain, will thus own the major companies in the industry which produce or smelt iron ore, produce ingot steel or carry out the hot rolling of steel. The corporation consists of a chairman and from six to ten members appointed by the

[1] See the White Paper issued in 1942, Cmd. 6403, para. 7.

Minister from among persons with experience of iron and steel production, industry, commerce, finance, administration or the organization of workers. It will not itself engage in making iron or steel, but will be a holding corporation. The operating companies will still operate, but for a single shareholder. The Minister's powers of direction are framed as in previous nationalization statutes, though he has some special authority to tell the corporation to discontinue or restrict its activities or to dispose of assets. A Consumers' Council is to look after consumers' interests. The vesting date is to be January 1, 1951, or such date, not more than 12 months later, as the Minister by order (not, it seems, a statutory instrument) substitutes. As usual, there is to be no dissipation of assets meanwhile. Existing shareholders are compensated in British Iron and Steel Stock on the basis of the market value of Government securities at the date of transfer.

The Airways Corporation Act (c. 57) merges two out of the three British corporations, the British Overseas Airways and the British South American Airways, transferring all the aircraft and other property of the latter to the former, adjusting statutory references and making consequential arrangements as to finance, borrowing and accounts. It authorizes an additional deputy chairman for the amalgamated concern. The third corporation, British European Airways, is left untouched. The consolidating Air Corporations Act (c. 91) refers to all three.

Part I of a short Coal Industry Act (c. 53) enlarges the composition of the National Coal Board and allows it to operate outside Great Britain, so that it becomes an exporting agency. The Act allows the breaking of inconvenient contracts on payment of compensation (fixed by arbitration in default of agreement) and provides for enforcement of workmen's compensation liabilities against the Board. One section concerns the superannuation rights of persons doubtfully within the scheme or within non-nationalized industries. Part II extends the power of the Minister to make regulations under the old and by no means unsatisfactory Coal Mines Act of 1911.

When the coal nationalization proposals were debated in 1946, critics suggested that two years were less than enough to finish dealing with complex agreements and compensation units, and that, if difficulties arose in consequence, the Minister would not be able to cure them by merely issuing regulations. The warning proved to be justified. A Coal Industry (No. 2) Act continues the income payments to companies pending the final settlement (c. 79).

Finance.—The Budget proposals, as enshrined in the Finance Act (c. 47), reduce duties on tea, beer, sugar and light wines, relax entertainment tax in rural areas and exempt amateur entertainments. They improve the depletion allowances for mining concerns and the wear and tear allowances on machinery. Among other changes the duty in matches is raised, and the 20 per cent. duty on football pool betting goes up to 30. There is a general tidying up of taxation. Excise licence duties payable by appraisers, auctioneers, house agents and plate dealers are wiped out; they involved more work than they were worth. The levy of other excise licence duties (those paid by hawkers, moneylenders, pawnbrokers and refreshment-house-keepers) is transferred to local authorities. A long list of obsolete, archaic or unproductive stamp duties is abolished; it includes those on letters of allotment, bills of lading, passports, powers of attorney, letters of marque and reprisal and appointments of a gamekeeper.

The land tax of 1692 disappears at last. More than half of it had been already redeemed, and the yield of £600,000 a year entailed over a million assessments. Three quarters of these assessments involved an annual charge of less than 10s.; for them the tax is cancelled outright. Otherwise redemption is made compulsory when the property next changes hands on sale or death; if the property passing on death is part of an estate below the estate duty exemption of £2,000, no redemption money will be charged. Income-tax changes, as

usual, lead to complicated clauses. One of them treats borrowing against a life policy as income. The exemption limit for gifts between living persons is raised from £100 to £500.

Perhaps the most striking simplification and tidying occur over death duties. Just as Sir William Harcourt consolidated the probate, inventory, account and temporary estate duties into a single estate duty in 1894, so now Sir Stafford Cripps consolidates the three death duties. The three kinds previously exacted have been *estate duty,* charged on property passing at death at rates graded to the total value, and *legacy* and *succession* duties, varying with the beneficiary's relationship to the deceased. Each of the three had its own separate legislative code. Legacy and succession duties are now repealed, a slight increase in the scale of the new single tax gives the Exchequer something on the roundabouts to offset any loss on the swings. Some critics regretted that property going to a wife or near relative would henceforth be taxed on the same uniform scale as if it went to a stranger in blood.

Whether to combat inflation or to gather windfalls which exporters might otherwise pick up through devaluation, the Profits Tax Act (c. 64) raises the rate on distributed profits from 25 to 30 per cent. The annual Appropriation, Consolidated Fund, Public Works Loans and Isle of Man (Customs) Acts need no special mention. An Export Guarantees Act (c. 14) enables the Board of Trade, after consulting the Export Guarantees Advisory Council and obtaining Treasury consent, to arrange guarantees for business firms in the United Kingdom in connection with export, manufacture, treatment or distribution of goods, and also such other guarantees "as appear to the Board to be expedient in the national interest." The Board may, with Treasury consent, acquire securities guaranteed under this type of legislation.

Savings Banks.—Savings banks in the United Kingdom are either trustee savings banks or else the Post Office savings bank. Some eighty-six of the former operate in local areas; they are non-profit-making institutions managed by voluntary trustees; a Trustee Savings Bank Association, a voluntary body which first attained statutory recognition in the Act of 1929, is available for consultation. The deposits in both kinds of savings banks are invested with the National Debt Commissioners. A new Savings Banks Act (c. 13) gives two new powers. The banks may make grants to a Mutual Assistance Account in the hands of those Commissioners for the benefit of other banks, or they may make grants direct to other banks. Thus the stronger will help the less strong. Other sections of the Act allow a trustee savings bank, if it has made an advance to another bank, to release the whole or any part of the principal or interest. Naval savings banks, now little used since sailors can save through the National Savings Scheme and over the pay-table, are abolished. Those who are interested in the parliamentary control of delegated legislation will note that Treasury orders under section 2 of the 1920 Act (regulating the rate of interest paid to trustee savings banks on their deposits) are henceforth to be subject to annulment on a resolution of either House.

Transport.—To give motor-ways and single-purpose roads their place in the road system of Great Britain, the Special Roads Act authorizes schemes for allocating special roads to special classes of traffic (c. 32). Existing law allowed control of access and the layout of junctions, but did not permit particular classes of traffic to be excluded from the King's Highway. The Minister of Transport is himself the highway authority for trunk roads; for these he will make the schemes. For other roads the local highway authorities can make schemes subject to his confirmation. He is to "give due consideration to the requirements of local and national planning, including the requirements of agriculture"; would he have ignored them even if not so admonished? A scheme may prescribe different classes of traffic in relation to different parts of the special road. These different classes include heavy or light motor vehicles, animal-drawn vehicles,

pedal cycles, animals ridden, led or driven, and pedestrians. Where a scheme operates, orders may appropriate any existing road as part of the special road and may authorize the stopping up, diversion, improvement, raising, lowering or otherwise altering of any road which crosses, enters or is otherwise affected by the special road. These orders may stop up private rights of way or provide new rights. There are provisions to restrict interference by sewerage authorities, to deal with bridges and tunnels, to enable land to be acquired and to settle the relationship of the new special roads to the existing statutory trunk roads. As might be expected, the Minister is to have power to make regulations for traffic on special roads and other like purposes.

The Railway and Canal Commission is abolished (c. 11). Set up by statute in 1888, with a High Court judge as *ex officio* chairman, a Scottish judge and two nominated commissioners, it had the full powers of a court and it decided important questions of charges. It had outlived its main purpose, having lost much of its work to the Railway Rates Tribunal in 1921 and part of the residue under the Transport Act of 1947. A Bill for its abolition made no progress in 1933; now, in 1949, with a charming valedictory speech in the House of Lords by Lord Maenan, the last surviving Commissioner, an Act terminates the Commission, disposes of its records and transfers its remaining functions to the courts, sending some minor disputes under the Telegraph Act to the county court in England and the sheriff court in Scotland.

Wireless and other Communications.—Wireless telegraphy was experimentally regulated in 1904 by a temporary statute annually kept alive by the Expiring Laws Continuance Act. In 1949, with radar and television now to be considered, a new Wireless Telegraphy Act becomes permanent law (c. 54). The highly-technical definition of "wireless telegraphy" in section 19 is wide enough to comprise radar, remote control and other modern mysteries. Part I of the Act covers control of all wireless stations and apparatus under licence from the Postmaster General as in 1904, with special provision for fees and charges, regulations, experimental licences and operators' certificates of competence. Under section 5 it is an offence to send wilfully false or misleading messages likely to prejudice safety, or falsely to suggest that vessels or aircraft are or are not in distress or need of assistance. It is also an offence to use without authority any apparatus with intent to obtain or disclose information. These provisions will apply to all stations and apparatus within the United Kingdom and its adjoining territorial waters. Subject to the Postmaster General's regulations they will also apply to foreign ships and aircraft within those limits, to British ships and aircraft outside them and to apparatus which is released from inside them or from British ships or aircraft. Part II of the Act is due to the great volume of complaints of interference with wireless reception. The Postmaster General, after consulting an Advisory Committee, may make regulations prescribing the requirements with which apparatus (other than wireless telegraphy apparatus) must comply if it generates or is "liable to generate fortuitously" electro-magnetic energy at frequencies of not more than three million megacycles per second. If he thinks that apparatus does not so comply and that its use will cause undue interference with wireless telegraph services on which safety depends, or will cause and has caused undue interference with any other wireless telegraphy, he may serve a notice on the possessor of the apparatus, requiring him to discontinue or limit its use and prohibiting its sale (except for export), hiring or advertisement. There will be a right of appeal to an appeal tribunal presided over by a legal chairman assisted by expert assessors. There is the inevitable power of entry and search (on a justice's warrant) in respect of premises, vehicles, vessels and aircraft.

A brief Telegraph Act (c. 80), though drawn in general terms, was of only local concern. In 1940 a percentage levy was imposed on telephone users, to meet the higher costs of maintenance. This, while fully justified throughout the

country where the Post Office owned the telephones, was less appropriate at Hull where, exceptionally, the city owned the telephone service and was responsible for the cost. The Act has the effect of discontinuing the levy for Hull.

Patents and Designs.—An Act of 1946 had embodied changes in the law of patents and designs recommended by the First Interim Report (Cmd. 6618) of a departmental committee over which Sir Kenneth Swan presided. A further and a final report (Cmd. 6789 and 7206) led to the Patents and Designs Act of 1949 (c. 62) which makes further amendments. An undertaking to consolidate the law in two separate Bills as shown in a White Paper (Cmd. 7645) was carried out in the Patents Act and the Registered Designs Act (cc. 87-8) already mentioned.

The amendments include the appointment of an additional High Court judge whose expert knowledge of patent law could shorten and cheapen litigation, and the appointment of scientific advisers to assist the court. There is machinery for a declaratory judgment to remove a manufacturer's doubts and anxieties. There is power to submit a dispute between a patentee and another party over an alleged infringement to the Comptroller of the Patent Office who may award damages up to £1,000 or, if the parties agree, a higher sum. Appeals from the Comptroller will go to the Patents Appeal Tribunal and thence to the Court of Appeal, with the necessary modifications for Scottish cases. Other features of this highly technical statute deal with applications for patents, licences of right and revocations, the abuse and insufficient use of patent rights, the Crown's use of inventions, secrecy in defence matters, co-ownership of patents, disputes over employees' inventions, and claims for chemical substances. The Act also simplifies and modernizes the registration of designs; Board of Trade rules may exempt designs for articles "primarily literary or artistic in character," for which the law of copyright will provide. An out-of-date classification which allowed registration in fifteen classes was said to have been founded on the catalogue produced for the Great Exhibition in 1851.

Administration of Justice.—The Juries Act (c. 27) embodies the principle of payment (travelling and subsistence allowances and compensation for loss of earnings or additional expense) according to scales and conditions prescribed by the Home Secretary with Treasury consent. The old special juries are abolished except the City of London special juries in commercial causes; thus the expressions "common juror" and "common jury" are to "cease to be used." The Act indicates the person by whom the amount of a payment is to be ascertained, the mode of paying and the appropriate local fund. There are arrangements for the special circumstances of the ridings of Yorkshire and the divisions of Lincolnshire. Certain exceptional cases such as the juries at the Trial of the Pyx (under the Coinage Act) or at inquests held by the coroner of His Majesty's Household are excepted and preserved. Corresponding provision is made for Scotland, and the Northern Ireland Parliament is authorized to pass similar legislation.

The reports of the Royal Commission on Justices of the Peace, over which the late Lord du Parcq presided, and of the Roche Committee on Justices' Clerks, provided material for framing the important Justices of the Peace Act (c. 101). Part I deals with individual justices. No one must be appointed or act as justice for an area unless resident within 15 miles of it, though the Lord Chancellor may allow exceptions. The *ex officio* qualification for a magistrateship (under the Local Government Act, 1933) of a mayor or ex-mayor is cut down. Members of local authorities must not adjudicate when the authorities are parties. There is to be a "supplemental list." Justices over 75 (with a saving for those who have held high judicial office) may apply to be entered thereon; the Lord Chancellor may put justices on to this list if satisfied that their "age or infirmity or other like cause" make it expedient that they should not exercise the function of a justice in their area or if they "decline or neglect to take a proper part" in such exercise. For the next five years the Lord

Chancellor may make exceptions to this restriction in areas which are short of experienced justices. Practice by a solicitor justice (or his partner) before the bench of his own area, unless he is on the supplemental list, is forbidden. Justices may receive travelling and lodging allowances. Part II opens rather contentiously by reducing the separate commissions of the peace and the separate quarter sessions; ancient boroughs, now relatively small in population, are reluctant to surrender ancient privileges. The Lord Chancellor is empowered to make exceptions on grounds which include "historical or geographical reasons." Section 13 deals with the size and chairmanship of the bench, whether sitting as a magistrates' court or at quarter sessions. The Roche Committee thought the ideal size was from three to five (and never above seven); the Royal Commission agreed; the Act leaves it to be prescribed by Lord Chancellor's rules. Justices are not to be members of a juvenile court panel after reaching the retiring age prescribed by rules. There is to be a Rule Committee for magistrates' courts; in consultation therewith the Lord Chancellor may make rules to regulate the procedure and practice to be followed by magistrates' courts and by justices' clerks. Under Part III magistrates' court committees (an experiment recommended by the Roche Committee) are set up for every county and county borough; they will arrange schemes for courses of instruction for justices of their area. They have other responsibilities such as the appointment of justices' clerks. The clerks' qualifications and superannuation, their conditions of service and their functions as collecting officers are prescribed. Part IV contains various administrative and financial provisions, including the destination of fines and the making good of the defaults of justices' clerks. Part V deals with the appointment, qualifications, salary, superannuation and sittings of stipendiary magistrates outside London, but it leaves undisturbed the provision for such matters in Local Acts. Miscellaneous matters in Part VI cover travelling and lodging allowances for members of probation committees and case committees, the incorporation of probation committees (which can now hold land) and the holding of county quarter sessions in an adjoining borough. The Home Secretary's power of appointing recorders is transferred to the Lord Chancellor.

A Criminal Justice (Scotland) Act (c. 94) is largely the counterpart of the English Act of 1948, dealing with the treatment of offenders (before and after sentence), Borstal, probation, corrective training, preventive detention and other modern developments. "Criminal lunatic" and "criminal lunatic asylum" are euphemized as in England. Drawing and quartering are solemnly abolished as penalties for high treason, and sentences of attainder, corruption of blood, escheat, outlawry and fugitation also disappear from Scottish criminal law.

The machinery for settling disputes over the valuation of land is altered by the Lands Tribunal Act (c. 42). Official arbitrators had been appointed under the Acquisition of Land (Assessment of Compensation) Act, 1919; they were whole-time surveyors of high professional standing, appointed by a Reference Committee. Though experts in valuation, they were not lawyers. The Town and Country Planning Act, 1947, had introduced a fresh conception of "existing use" value, involving questions of legal difficulty. A new Lands Tribunal, consisting of surveyors and lawyers with a legal president, now takes over the jurisdiction of the official arbitrators and of the Estate Duty Referees and other matters. Points of law can, if need be, be taken up to the House of Lords.

Legal Aid.—A legal and a health service are scarcely comparable. In England either charity or some system of poor man's lawyer or a direction from the bench had sought to ensure than no man suffered for want of professional legal assistance. The Law Society's divorce department, too, had done wonders in clearing the divorce list. Following the report of the Rushcliffe Committee set up by Lord Simon in 1945 (Cmd. 6641*), the Legal Aid and Advice Act

* See the White Paper, Cmd. 7563, summarizing the proposals of the Bill and explaining the divergencies from the Rushcliffe report.

(c. 51) offers representation by a solicitor and, so far as necessary, by counsel "including all such assistance as is usually given by solicitor or counsel in the steps preliminary or incidental to any proceedings or in arriving at or giving effect to a compromise to avoid or bring to an end any proceedings." A list of the proceedings in the various courts and of the excepted proceedings such as defamation or breach of promise of marriage, is set out in a schedule. The applicant must first show that he has reasonable grounds for the proceedings whether as plaintiff or defendant or as a party. There is a saving for the recognized relationship between, or rights of, counsel, solicitor and client and for any privilege arising therefrom; secrecy is to be preserved. Naturally there is a means test. The applicant's "disposable income" must not exceed £420 a year; he may be refused aid if he has "disposable capital" of more than £500 and it appears that he can afford to proceed without aid. He may have to contribute to the legal aid fund in respect of income not more than half the amount (if any) by which his disposable income exceeds £156 per annum or in respect of capital not more than the amount (if any) by which disposable capital exceeds £75. In assessing "disposable" income or capital, the Act disregards deductions for maintaining dependents, interest on loans, income tax, rates, rent and other reasonable calls, and also such further allowances as may be prescribed by regulations "to take account of the nature of his resources." Resources of a wife or husband are treated as the applicant's resources. Section 5 provides for legal aid in matters not involving litigation. There will be panels of solicitors and counsel; there may be separate panels for different purposes, different courts and different districts. The practitioner may be excluded from the panel for misconduct; if so, he can appeal to the High Court. Section 7 arranges oral legal advice in England and Wales or, for a member of the forces, outside Great Britain. The operation of the Act will depend on a scheme to be made by the Law Society (the organ of the solicitors) in consultation with the General Council of the Bar, with the approval of the Lord Chancellor and the concurrence of the Treasury, and on regulations to be made by the Lord Chancellor. The Law Society is to establish and administer the legal aid fund and have the accounts audited. There will be an Advisory Committee. Part II of the Act adjusts the new law to the free legal aid already available under existing Acts.

Similar arrangements are made by the Legal Aid and Solicitors (Scotland) Act. Incidentally it establishes a Law Society of Scotland, in place of the General Council of Solicitors in Scotland, with its Discipline Committee; and it creates a Scottish Solicitors Guarantee Fund, on the model of the Fund set up in England in 1941, to compensate clients for loss due to professional dishonesty (c. 63). A Scottish Committee, presided over by Mr. John Cameron, Dean of the Faculty of Advocates, had reported (Cmd. 6925) on the differences between Scottish and English requirements. One obvious divergence is the absence in Scotland of anyone exercising the comprehensive functions of the Lord Chancellor. Scotland had, as a matter of history, legislated as early as 1424 to secure a "leill and wise advocate" for every "pure creature" who "for faulte of cunning or dispenses" could not "follow his cause."

Professional Organization.—In addition to the foregoing enactments there is the Solicitors, Public Notaries, etc., Act (c. 21). In 1785 the younger Pitt imposed a special levy on notaries and solicitors and on three other classes which flourished in the 17th and 18th centuries but have now disappeared—namely, special pleaders, draftsmen in equity and conveyancers. The impost was £5 in 1785, but latterly a little more. This levy was largely repealed by the Finance Act of 1947; it would, it seems, have been abolished altogether had not such a step raised doubts that the Finance Bill would then become not solely a Money Bill. The abolition is therefore accomplished by a separate statute in 1949. Solicitors will, as before, obtain their practising certificates from the Law Society; notaries will obtain them from the Archbishop of Canterbury's Court of Faculties.

A Nurses Act improves the status and powers of the General Nursing Council and makes it more widely representative (c. 73). The membership is increased from twenty-five to thirty-four; one half will be elected members, with special representation of mental nursing and child nursing. There is to be a Mental Nurses Committee, just as there was a statutory Assistant Nurses Committee under the 1943 Act. There will be "area nurse-training committees" for each hospital area. The G.N.C. is given control of the formation of the Register, the conditions of admission thereto and the conduct of examinations for entry. It may prescribe the grounds of removal from the Register and the training and experience required for qualifying. It may introduce experimental training schemes. It is relieved of the expense of printing the Register. The shortage of nurses may be relieved by accepting nurses trained abroad. The G.N.C. may register them if properly trained; if not, it can give further training, followed by examination and registration in the event of success. A Nurses (Scotland) Act is the counterpart of the foregoing provision for England and Wales with a few differences due to the different hospital structure in Scotland (c. 95).

Marriage and Family Relations.—The great consolidation of marriage law has already been mentioned. In addition, three Private Members' Bills on this subject—one on which Government Bills hesitate to lay an amending hand—reached the statute book. The first, Mr. Monslow's Married Women (Maintenance) Act, increases the amount payable (c. 99). A statute of 1895 authorized applications to magistrates on various grounds for allowances up to £2 a week. By an amendment in 1920 the order could cause payments to be made either to the applicant or to an officer of the court for weekly sums up to 10s. for any child under 16. Inadequate in 1949, the £2 is now raised to £5, and the 10s. to 30s. Where money is wanted for a child's education or training, the allowance can be continued after 16, but not for more than two years. The order for the custody of the children may make such provision as the court thinks fit for the husband's access to them.

Secondly Mr. Manningham Buller's Law Reform (Miscellaneous Provisions) Act (c. 100) gives effect to some of the recommendations in the Denning Committee's reports (Cmd. 6881, 6945 and 7024). The High Court in England obtains jurisdiction in a wife's proceedings for divorce or nullity notwithstanding that the husband is not domiciled in England, provided that she has been ordinarily resident in England for the last three years and that he is not domiciled in the United Kingdom, Channel Islands or Isle of Man. Section 3 amends Sir Alan Herbert's Matrimonial Causes Act of 1937. That Act allowed divorce if the respondent spouse was incurably insane or had been for seven years continuously under care in a mental hospital in England. The new Act, making good an oversight, allows care and treatment in Scotland, Northern Ireland, the Isle of Man or the Channel Islands to count for the purpose. Section 4 deals with the legitimacy of children where a voidable marriage has been annulled—another Denning report point. Another section alters the law whereby hitherto anyone by settling money on a British infant resident in the United Kingdom could make the infant a ward of court without the consent of either the parents or the court. Perhaps the most notable change is that which abolishes the rule in *Russell v. Russell* (1924 A.C. 687), whereby neither spouse could give evidence of non-access if it would tend to bastardize a child *prima facie* born in wedlock. South Africa in 1935 and various provinces of Canada (as our Summaries have shown) had revoked the rule which, reached by a narrow majority of judicial opinion, was said to be founded on decency, morality and policy.

Lastly Mr. Basil Nield's Adoption of Children Act (c. 98) makes some useful amendments. It removes doubts of the validity of an adoption of an illegitimate child by either of its natural parents. It forbids adoption orders unless the would-be adopter is at least 25 and at least twenty-one years older than the

adoptee, or unless the adopter is a relation and 21 or the natural father or mother of the child. There is fresh law about the consents to be obtained. There will in future (with some exceptions) be a probationary period of three months, to prevent hasty or unsuitable adoptions being made permanent. If the adopted children are not citizens of the United Kingdom and Colonies, they will become such if the adopter (or, in the case of a joint adoption, the male adopter) has that citizenship. The law of inheritance and descent on intestacy will henceforth apply to adopted children as it does to those born in wedlock. Adopted children are, for the purpose of marriage law, brought within the prohibited degrees of consanguinity. There are new provisions for the registration of adoption orders, and a new definition of "relative." Finally this Act drives another nail into the coffin of the rule in *Russell v. Russell.*

Besides these changes due to Private Members' Bills one change was initiated by a Personal Bill. The House of Lords, after full consideration by its expert and authoritative Personal Bills Committee, passed a Bill which proposed to remove, in the particular case of Lady Mountbatten's estate, what lawyers know as the restraint on anticipation. The income under her settlements, some £80,000 after her marriage in 1922, had been reduced by taxation to £4,500 in 1948, and the settlements restrained her from touching the capital. Critics objected that the remedy should be given to all married women, not to one alone. This the Married Women (Restraint upon Anticipation) Act proceeds to do in 1949 (c. 78), making fully retrospective the relief which an Act of 1935 had brought in respect of future settlements only.* The idea of making a married woman absolute mistress of her property has nevertheless still to reckon with settlors' masculine distrust of her wisdom.

Agriculture.—Besides the consolidating statutes already mentioned several new laws relate to agriculture. An Agriculture (Miscellaneous Provisions) Act (c. 37) encourages cattle breeders with a calf subsidy. It provides for centres for the artificial insemination of cattle from beef bulls of approved breeds. Schemes may subsidize grass and forage conservation. New Milk and Dairies Regulations may give medical officers of health the power to prohibit the sale of milk suspected of infection with bovine diseases such as tuberculosis or undulant fever; the farmer can be reimbursed for consequent loss. The Minister may train potential farm workers. The Government takes powers to obtain tenant rights for farms which war agricultural committees took over. There are stiffer penalties on people who keep or import the Colorado beetle, a sinister threat to the potato crop.

The inter-war Agricultural Marketing Acts of 1931 and 1933 need to be brought up to date. A new Act (c. 38) is content with much less than the far-reaching proposals of the committee over which Lord Lucas of Chilworth had presided. It prescribes the size of a marketing board—not less than eight members, nor more than twenty-four unless the Minister thinks fit. There are safeguards against the abuse of a board's jurisdiction. The Minister can forbid it to do what he thinks is contrary to the public interest. He may intervene where a board is restricting the purposes for which a product is used or when it limits quantity or regulates price or restricts the classes of persons through whose agency a commodity is sold. If he intervenes, he must notify the board and allow it 28 days; during this period it can object and can claim that the matter should go to a committee of investigation with an independent legal chairman. One group of sections, based on the recommendations of the Falmouth Committee, governs the imposition of penalties on producers who break the rules. There are better powers of enforcing the decisions of the disciplinary committee. It may

* See 25 & 26 Geo. 5. c. 30. S.2, giving effect to the recommendations of the 4th Interim Report of the Lord Chancellor's Law Revision Committee (Cmd. 4770). For Lord Thurlow's part in the evolution of the restraint in courts of equity see Holdsworth, *History of English Law,* xii, pp. 324-5.

postpone the infliction of a penalty. The marketing boards may in future make, acquire, sell or let for hire articles or commodities either for better marketing or better production. The Market Supply Committee, created by the 1933 Act, is abolished, its purpose being nowadays served by the Ministry of Food.

The Prevention of Damage by Pests Act (c. 55) repeals the Rats and Mice (Destruction) Act of 1919 and replaces some Defence Regulations. The 1919 Act imposed the primary duty upon the occupier of premises to take the "necessary and reasonably practicable" steps. Henceforth local authorities (whose task of enforcing that rather vague responsibility against individuals was not easy) must themselves prevent and remedy infestation, thus becoming liable if it proceeds from sewers or refuse dumps. They can require action and specify the appropriate treatments. An occupier of land must give written notice to the local authority "if it comes to his knowledge that rats or mice are living on or resorting to the land in substantial numbers"; this, however, does not apply to agricultural land or to other land which the Minister may by regulations except. The local authority may treat groups of premises as one unit. It may require information as to interests in land. Unoccupied premises will be deemed in the occupation of the owner. A separate Part of the Act deals with infestation of food. Persons who manufacture, store, transport or sell food in the way of business must give the Minister written notice if they know of infestation in their premises or vehicles or in the food for which they are responsible. A like duty is placed upon persons who manufacture, sell, repair or clean containers. The Minister's regulations may prohibit or restrict the business delivery of food or goods in such cases, but may make exceptions. He may also give directions to such persons to stop dealing with infested food or using premises, vehicles or equipment which is or is likely to be infested, and to carry out structural works or take other measures. There is a right of appeal to a court against these directions. The Minister may delegate these functions to local authorities. His powers of making regulations include securing special precautions when ricks are threshed or dismantled and generally "controlling the methods for keeping down or destroying rats, mice, insects or mites." The Act may by Order in Council be applied to shipping and aircraft.

Food.—The Minister of Food (Financial Powers) Act authorizes payment "out of moneys provided by Parliament" of sums required by the Minister to fulfil past or future contracts or arrangements "in or in connection with the exercise of his functions as to food and animal feeding stuffs," including commitments extending beyond a current financial year (c. 15).

The war-time Defence Regulation 55G had temporarily regulated the sale of raw milk in "specified areas" with special reference to the use of such descriptions as "tuberculin-tested," "accredited," pasteurized," "sterilized" or "heat-treated" milk or any other label so closely resembling these as to be calculated to deceive. A White Paper having been issued in 1943 (Cmd. 6454) and a Committee on Milk Distribution having reported (Cmd. 7414), the Defence Regulation is now revoked and replaced by the Milk (Special Designations) Act, which, in specified areas designated by the Minister of Food, obliges the use of a "special designation" in the retailing of milk for human consumption otherwise than as refreshments (c. 34). The special designations are to be discovered by referring to the regulations made under the Food and Drugs Act, 1938, for England and the equivalent legislation for Scotland. The Act restricts the use of the designations "accredited" and "standard." The Minister may consent to sales without special designations where the statutory obligations "appear to him to be for the time being not reasonably practicable." He is authorized to install, maintain and operate apparatus for treating milk in connection with the new statutory descriptions.

The Coast and the Countryside.—The Coast Protection Act (c. 74) was a general remedy for particular cases like Seaford and Caister where the depredations of

the sea caused damage beyond the resources of the locality. Heavy engineering work might be needed along a stretch of coastline involving many landowners and many local authorities. An authority hitherto could act in defence of only its own property; it could not require a contribution from others or control the operations of private citizens. The Act establishes coast protection authorities (the councils of maritime county boroughs or county districts) and coast protection boards for an area. The boards will comprise representatives of drainage, river, fishery, harbour, conservancy, navigation and highway authorities and (where railways or canals may be affected) the British Transport Commission. There may be joint committees. The coast protection authorities may carry out works both inside and outside their areas. They may prepare "works schemes" with compulsory powers and the levy of "coast protection charges"; the schemes may indicate the "contributory land." After due notice of a scheme and the usual opportunities for objection and a local enquiry, the Minister may by order confirm it with or without modification. The boards may be authorized to defray or contribute to the cost of works and to borrow money. A coast protection authority may prohibit the excavation or removal of materials (other than minerals more than 50 feet below the surface) on, under, or forming part of, the seashore; it may sell the materials which it severs from the land. Other provisions deal with the safety of navigation and with the application of the Act to the Crown and to Crown foreshore.

The steps leading up to the National Parks and Access to the Countryside Act (c. 97) include a valuable series of reports—those, for instance, of the Addison Committee in 1931 (Cmd. 3851) and of the Scott Committee on Land Utilization in Rural Areas which in 1942 recommended the creation of national parks (Cmd. 6378), the masterly survey by John Dower in 1945 (Cmd. 6628) and that of Sir Arthur Hobhouse's committee in 1947 (Cmd. 7121) with its admirable account of the history of the movement. Two Scottish reports on national parks and wild life conservation (Cmd. 6631 and 7814) must also be mentioned.

The Act begins by creating a National Parks Commission, the members being appointed by the Minister of Town and Country Planning. Their main duty is to exercise functions—

> "for the preservation and enhancement of natural beauty in England and Wales, and particularly in the areas designated under this Act as National Parks or as areas of outstanding natural beauty," and
>
> "for encouraging the provision or improvement, for persons resorting to National Parks, of facilities for the enjoyment thereof and for the enjoyment of the opportunities for open-air recreation and the study of nature afforded thereby."

The Minister may, in the now familiar formula, give the Commission "directions of a general character" which must be complied with, and there will be an annual report to Parliament. These national parks will be designated by an order made by the Commission and confirmed by the Minister. Local authorities must first be consulted; the planning authorities must work out arrangements, including those for accommodation, meals, camping sites and parking places, and, where there are waterways, sailing, boating, bathing or fishing. The Minister may acquire land in a park. Part III of the Act supplements powers conferred by charter on the Nature Conservancy; it defines "nature reserves," enables agreements to be made with owners and occupiers and land to be acquired, provides for formal declaration that land is held as a nature reserve and authorizes by-laws to be made for its protection and proper use. Local authorities may establish nature reserves. The Nature Conservancy is to inform local planning authorities where an area, though not managed as a reserve, is "of special interest by reason of its flora, fauna or geological or physiographical features."

Part IV, dealing with public rights of way, contemplates a survey of public paths, the preparation of maps and statements and the determination of disputes, the creation of new public rights of way, the diversion and closure of public

paths (with compensation for persons whose interest is depreciated or disturbed), the approval of proposals for "long-distance routes" (for "extensive journeys on foot or on horseback") with facilities for accommodation, meals and refreshments and ferrying, and some minor amendments of the law of rights of way and its adjustment to the needs of agriculture. Part V gets rid of the Access to Mountains Act of 1939 and gives local planning authorities the power to make "open country" available for public access. Where an "access agreement" or an "access order" is in force, anyone who enters for open-air recreation without doing damage will not be treated as a trespasser. Here again there will be compensation for depreciation of the value of an interest in the land. Special sections deal with mapping, boundary notices, woodlands and so on.

Lastly Part VI saves the needs of agriculture and forestry, gives the Commission power to make orders designating areas of outstanding natural beauty, and permits local authorities to plant trees, restore derelict land, make by-laws for restricting traffic on footpaths and bridleways and ensuring good behaviour, and appoint wardens. The working of the Act is financed by Exchequer grants and by contributions from local authorities.

One particular open space needs special legislation. The Laws of Canute, issued at Winchester in 1016, indicate that the New Forest (now in the County of Southampton) was already subject to the forest laws of the period. The archaic royal prerogative of hunting the deer having disappeared when the royal deer were removed by statute in 1851, the area is now a State forest. The New Forest Act of 1949 (c. 69), following some recommendations of the Baker Committee (Cmd. 7245) whose report contains interesting historical detail, reconstitutes the Verderers (the governing body) with a proper elective element, arranges for the designation of the lands to which rights of common are attached, reforms the composition of the uniquely surviving Court of Swainmote sitting in a judicial capacity, and legislates for the Verderers' accounts and power of making by-laws which *inter alia* may deal with "pigs turned out in pannage time." Various responsibilities for roads, forest drainage and clearance of seedlings are settled. The land, which in former centuries furnished the Wooden Walls of England, may (up to 5,000 acres) be enclosed for timber planting, and care is taken to preserve and regenerate "the ancient and ornamental woods."

Local Government.—Among its last actions before the General Election of 1945, Parliament created a Local Government Boundary Commission to review the areas of local government in England and Wales (except in London) and in part to alter boundaries. The Commissioners brought exceptional ability and industry to their task, but changes of this kind arouse local patriotisms and are more contentious than a Government cares for. With ten years' accumulation of local needs unsatisfied, Parliament now abolishes the Boundary Commission (c. 83), throwing local authorities back upon the rather costly machinery of Private Bill legislation, as the next session was to show.

Education.—An Education (Scotland) Act amends the consolidating statute of 1946 for which the way had been prepared by a long amending Act hurriedly passed on the eve of the General Election of 1945. In 1949 a new Act postpones, because the buildings were not ready, the date for compulsory attendance at junior colleges from April 1, 1950, to a date to be appointed by the Secretary of State, "being as early a day as he considers practicable" (c. 19). Among other minor changes the Act prescribes rules for deciding which of two education authorities is to pay where a pupil is taught by one and belongs to another.

Water Supply.—A uniform system of rating and charging for water in Scotland is established, for the first time, by the Water (Scotland) Act, no fewer than seven different systems having previously existed (c. 31). This result was recommended by the 1946 report of Sir Robert Bryce Walker's committee. The special water supply districts which become obsolete (now that a city council can levy rates for water throughout the county area) are dissolved. The rating

authority for water expenditure will be the normal rating authority. Some miscellaneous amendments are made in the big Act of 1946.

The Liquor Trade.—A Licensing Act (c. 59) embodies a recommendation of Lord Reith's New Towns Committee that the State should manage the liquor trade in the new towns which are provided out of public money (c. 59). Existing licensees in these towns will be able to carry on their business unless and until their premises are acquired. They will have the chance to continue under State management. If their premises are acquired and they do not so continue, alternative domestic accommodation will, so far as practicable, be provided. If these provisions were criticized as stages towards nationalising the liquor trade, Part II of the Act was less controversial. Embodying recommendations of the du Parcq Royal Commission on Justices of the Peace, it cuts down the excessive numbers of licensing benches by giving the licensing jurisdiction to committees; it alters the law of disqualification; and it allows the members of licensing courts their expenses. Several sections in Part III substitute permanent legislation for temporary Defence Regulations (D.R. 42C had enabled the police to close undesirable night resorts). The Home Secretary may grant a "special hours certificate" for a specified area—a facility of value to theatreland. Section 25 is aimed at "bottle parties" and 28 at "bottle shops." Section 30 forbids the employment of persons under 18 in bars. The 1910 provision for fixing licensing notices on church doors is modified. Something is done towards uniformity of "permitted hours" in London and the Home Secretary is empowered to apply licensing law to the Isles of Scilly by order.

The Social Services.—The Social Services (Northern Ireland) (Agreement) Act supersedes a previous agreement of 1946 and allows for further adjustments in the assimilation of the burdens borne by the Treasury in London and the Ministry of Finance in Belfast (c. 23).

A lacuna in the National Insurance Act of 1946 is filled by an amending Act (c. 56). In 1946 the insured person had to have "actually paid" twenty-six contributions since the scheme began on July 5, 1948; the amendment allows what are technically known as "credited contributions" to rank with actual payments. The National Health Insurance Act of 1946 is also amended (c. 93). It had prohibited the sale of medical practices by doctors taking part in the health service, and had compensated them for the loss of goodwill out of a block fund of 65 millions. Grievances and disputes arose, and the matter was referred for report to the Slade Committee. The Minister of Health accepted the Committee's recommendations and Part I of the National Health Service (Amendment) Act gives effect thereto. Allegations of hardship can be disposed of by a single arbitrator or an arbitration committee containing representatives of law, medicine and accountancy. Part II seeks to reassure the medical profession's fears that it might be placed on a full-time basis. Among other changes there is a modification of the tribunal which decides whether a man should be allowed to continue in the health service, superannuation rights are prescribed, and there is provision for recovering expenses from hospital in-patients who, in the later stages of recovery, can go out to remunerative employment.

Housing.—The titles of Victorian Acts (in 1885 and 1890, for example) sometimes referred to the housing of the working classes or (in earlier years) to dwellings for the labouring classes. Even the modern Act of 1936 speaks of houses "of a type suitable for occupation by persons of the working classes." The Housing Act of 1949 (c. 60) removes most of these statutory discriminations as being out of date, since account must be taken of the needs of all members of the community. Various sections encourage the equipment of solid old houses with indoor sanitation, hot water facilities and a fixed bath, as the Royal Commission on Population had suggested. Some demolition orders had been made before the Second World War, but had not been executed; then repairs had been done and the houses were reoccupied. The Act quashes these orders. There is

power to preserve houses which, though unfit for human habitation, have some special architectural or historic interest. Local authorities may pay reasonable allowances to persons displaced towards the expense of moving. They are allowed to sell furniture to tenants living on their housing estates, and to provide meals, refreshments and laundry facilities. There are fresh provisions for housing finance. Exchequer contributions may be made for converting buildings into hostels and for building experiments. A Housing (Scotland) Act makes corresponding provision (c. 61).

An Armed Forces (Housing Loans) Act authorizes the Treasury to issue for the next five years sums up to 40 millions for approved accommodation for the services in Great Britain—mainly for decent married quarters of which some 60,000 were said to be wanted (c. 77).

Landlord and Tenant.—The housing shortage continues to demand legislation which involves statutory interference with contracts. The Landlord and Tenant (Rent Control) Act offers various remedies for cases of hardship (c. 40). It empowers rent tribunals to fix reasonable rents for houses and flats let for the first time since September 1, 1939. It prevents the landlord from demanding a premium as a condition of granting or renewing a tenancy, and it restricts the demand of a premium on the grant or assignment of furnished lettings. Where a premium has been paid in addition to rent, the tribunal may decide the amount by which the rent should on that account be reduced. The Act brings within the scheme of rent control dwelling houses which had been held to be outside merely because some part of the living accommodation had been shared with a landlord or with other tenants. Tribunals are authorized to extend the three-month period of security of tenure enjoyed by a tenant who has appealed to them to have the rent of his furnished letting determined.

Two committees of enquiry, respectively presided over by Mr. T. M. Taylor and Lord Guthrie, had examined the grievances of Scottish shopkeepers whose landlords were pressing them to "buy or quit." The Taylor Committee report (Cmd. 7285) made no urgent recommendation; the Guthrie Committee interim report (Cmd. 7603) gave specific advice. The Tenancy of Shops (Scotland) Act, the Bill for which went to the Scottish Standing Committee under the new Standing Order 60, gives a temporary remedy which will expire at the end of 1950. When the landlord gives the shopkeeper a notice of termination of tenancy, the shopkeeper, if he cannot obtain a renewal "on terms that are satisfactory to him," may apply to the sheriff who, subject to certain exceptions and for a year only, may fix what he thinks reasonable (c. 25).

Superannuation and Pensions.—Not to let the State fall short of the standards of a good employer, a Superannuation Act (c. 44) improves the conditions and prospects of the civil service. Part I contains a contributory scheme to provide for widows, orphans and other dependents; the contribution is 1¼ per cent. of salary or, at the civil servant's option, a capitalized payment to be deducted from the lump sum due to him on retirement or from the gratuity paid (if death occurs earlier) to his dependents. Half the cost of this is met by the Exchequer. The scheme is obligatory on future entrants; existing civil servants can contract out of it. Part II contains a voluntary scheme, offering benefits for nominated relatives (otherwise than wives and children) or nominated dependents. Part III makes miscellaneous amendments of the previous Acts, removing anomalies and improving benefits. Superannuation allowances can be increased, for instance, on retirement for ill health with less than 20 years' service. Compulsory retirement at 50 or over is facilitated when the civil servant is no longer fully efficient; he will get the same pension as if he had retired on medical certificate. Civil servants also get a right to retire at 50, picking up their pensions on reaching the normal retiring age. Section 8 allows unestablished service to be reckoned in full instead of counting as one-half. An amendment carried against the Government in the Commons, making this provision retrospective, was not finally made part of the Act. The victory of future entrants makes the lot of their

predecessors more hard. No pension is to be based on a figure lower than 20/80ths of salary. The problem of "added years," temporary staff's gratuities and the grievance of men with past unestablished service remain for another time.

In the First World War the Ministry of Pensions was responsible for war pensions, but in 1920 they were re-transferred to the service departments from whose decisions there was no appeal. In the Second World War they were again transferred to the Ministry of Pensions. In 1949 there is no re-transfer. An Act of 1943 allowed an appeal to the Pensions Appeal Tribunal which could state a case for the opinion of the High Court. Some of the judicial decisions naturally threw fresh light upon earlier determinations made when the law had perhaps been imperfectly understood. So, in spite of the maxim which favours a *finis litium*, Special Review Tribunals were set up to re-open such cases and make recommendations for an *ex gratia* award. The new Pensions Appeal Tribunals Act (c. 12) regulates the range of appeals from these awards and, a more important feature, extends to the whole of the forces in peace-time the same rights as they have while war is technically continuing. For this purpose "any relevant service" is substituted for "war service" in the Act of 1943.

Welfare of Animals.—Private Members' Bills often deal with cruelty to animals. Major Ramsay's Slaughter of Animals (Scotland) Act ensures the use of a humane killer for pigs sent to slaughter-houses or knackers' yards (c. 52). Sir Dymoke White's Docking and Nicking of Horses Act (c. 70) forbids a practice understood to be already forbidden in Norway, Sweden and certain States of America. It allows docking where, because of disease or injury to the tail, a veterinary surgeon certifies that it is necessary. The import of docked horses is prohibited except for re-export or when brought to Britain for breeding purposes. "Horse" includes stallion, gelding, colt, mare, filly, pony, mule and hinny.

National Festival and Theatre.—Two statutes prepare for the 1951 Festival of Britain, to mark the centenary of the Great Exhibition of 1851 and to display the country's progress in the arts and sciences. One, the Public Works (Festival of Britain) Act, authorizes new foot-bridges across the Thames to and from the site on the South Bank, new landing stages and tramlines and temporary car parks (c. 26). The other, the Festival of Britain (Supplementary Provisions) Act sanctions the temporary enclosure of 40 acres of Battersea Park as festival gardens with provision for structures, river traffic and entertainments and money grants (c. 102).

A fund having been amassed for a Shakespeare Memorial National Theatre, a site was acquired in South Kensington. A change of plan substituted a site provided by the London County Council on the South Bank in connection with the Festival. As long ago as 1913 a private Member had introduced a National Theatre Bill. Now, in 1949, an Act under that name authorizes the Treasury, if satisfied with the scheme, to contribute a million pounds (c. 16). The Treasury must approve any future appointments of Shakespeare Memorial trustees.

Films and Film Production.—Presumably to foster the independence of the British film industry and British cinema audiences, the Cinematograph Film Production (Special Loans) Act establishes a National Film Finance Corporation which takes over the assets and liabilities of a company created by the Board of Trade, with Treasury backing, under the Borrowing (Control and Guarantees) Act of 1946. The corporation, which the Treasury may by order dissolve at the end of five years if satisfied that there is not sufficient reason for its continuance, may make loans for production and distribution if it finds persons who have reasonable expectation of producing or distributing films on a commercially successful basis and who cannot otherwise get finance "on reasonable terms from an appropriate source." The Act (c. 20) allows the Board of Trade to make advances up to 5 millions to the corporation. Proper accounts are to be kept, with a proper audit. As with the organs of nationalization, so with this State-

financed body, the responsible department (in this case the Board of Trade) may give it "directions of a general character" which must be complied with, and there will be an annual report to Parliament.

The Radcliffe Committee report (Cmd. 7361) recommended that the British Film Institute should receive a direct grant from the Treasury, in addition to its grant from the Cinematograph Fund. The British Film Institute Act (c. 35) so provides.

Delegated Legislation.—There were 2,468 Statutory Instruments in 1949 (a drop of about 400 from the total of 1948); 1,379 were general and 1,089 local. Four substantial volumes are needed to contain those of a general character. They include a new Air Navigation Order and (authorized by sub-delegation under Article 63 of the Order) new Air Navigation (General) Regulations. Other subjects of Executive legislation embrace British nationality, business names, civil defence, education, national insurance and the health service, patents and registered designs, pensions, price-fixing, town planning, wages councils and war damage—almost every topic, in fact, that is touched by the direct legislation of Parliament. There is a new Poisons List, new Poisons Rules, new Prison Rules and a new code for registering and licensing road vehicles, with a list of those mysterious alphabetical permutations which appear on the number-plates of motor vehicles.

Three of these volumes, all rather confusingly labelled "Volume I," contain, in nearly 5,000 pages, the statutory instruments made under powers delegated by statutes other than the Emergency Powers (Defence) Act and Supplies and Services Acts. The instruments made under the temporary powers of these last-named Acts (mainly Defence Regulations and orders made under Defence Regulation 55 "for the general control of industry") occupy less than 800 pages of the fourth volume. This proportion between the recourse to war-time powers and all other powers may be contrasted with the statistics of a year like 1942, when the Defence Regulations and their progeny of orders occupied 2,500 pages as against the less than 950 needed for the output of all other delegated legislation.

2. NORTHERN IRELAND.

[*Contributed by* W. A. Leitch, Esq.]

In the review of Northern Ireland legislation for the year 1948, some emphasis was laid on the value that a touch of local colour may impart to measures imported from Westminster. The year 1949 has provided further examples of the virtue of what might be called protective colouring. For instance, the Agriculture Act (c. 2), which derives much of its inspiration from the Agriculture Act, 1947 (U.K.) (c. 48), is designed to fit Northern Ireland's agriculture into a United Kingdom pattern of increased food production. That pattern as designed for Great Britain included powers of dispossessing incompetent farmers. Such powers would in Northern Ireland have been open to both legal and political objections—legal, in that almost every farmer in the Province is the fee-simple owner of his farm; political, because that ownership was the fruit of an agrarian agitation which lasted for two generations and was founded on, amongst other things, a tenant's rights of long standing, known as the Ulster Custom. Consequently, a different approach was necessary if powers for securing universally good husbandry were to be made exercisable here.

Finance.—In addition to the Consolidated Fund and Appropriation Acts, a number of Acts dealt with financial matters. The Finance (Miscellaneous Provisions) Act (c. 4) made provision respecting the sale of tithe rent charge and perpetuity-rents vested in the Ministry of Finance and the redemption or

commutation of certain annual payments in respect of housing, extended the power of making government loans for agricultural purposes and contained some tidying-up provisions as to local government finance. The Goverment Loans Act (c. 10) increased the maximum of the aggregate sum which may at any time be outstanding on foot of advances made under the Government Loans Acts. The Exchequer and Financial Provisions Act (c. 12) made a number of amendments in the code governing the administration of Government finance as a preliminary to the codification of those enactments affected in the following year (1950, c. 3). Part I of the Finance Act (c. 15) abolished legacy and succession duty and merged them in estate duty, the rates of which were also revised. Section 4 raises from £100 to £500 the amount which a bank may, on the death of one of the holders of a joint account, pay out to the survivor without a certificate that there is no outstanding claim for death duties. An exemption from duty is given in respect of gifts to the National Trust for maintenance purposes, and the existing exemption of gifts *inter vivos* is extended from £100 to £500. Section 7 enables a person to have his liability for death duties determined by the High Court on a summary application. Part II of the Act is mainly directed to the abolition of some thirty obsolete or unfruitful stamp duties, samples of which are—On the admission of any person as a burgess, or into any corporation or company, in any city . . .; On Commission of Lunacy; Deputation or Appointment of a gamekeeper, and Letters of Marque and Reprisal. An exemption which may be of value for the tourist trade is that of a policy of insurance, made or executed out of Northern Ireland, on baggage or personal or household effects. Part III makes some concessions as to entertainments duty. Part IV abolishes excise duties on licences for appraisers, auctioneers, house agents and dealers in plate and imposes a standard charge of a guinea on licences for refreshment houses. The Ulster Land Fund Act (c. 16) empowers the Ministry of Finance *inter alia* to use that Fund (established by the Finance Act of 1948) to acquire and maintain, or by grants to assist the acquisition or maintenance of, any land, buildings or other property for the purpose of "preserving or improving the natural beauty or amenities of any area or of preserving the flora, fauna, or geological or physiographical features or features of ethnological, archæological, architectural, historical, scientific or other special interest in any area." Property so acquired may be disposed of "in such manner as the Ministry considers will best serve the public interest" or further the purposes of the Fund; and special power is given to transfer the property to an approved body or its trustees, to a government department or a local or public authority, or any combination thereof. The Finance (Entertainments Duty) Act (c. 23) consolidates the law relating to this duty, which had been the subject of many amendments in a long series of Finance Acts.

Social Services.—The Welfare Services Act (c. 1) has as its main object the repeal of the existing poor law relating to workhouse accommodation and relief. It places on the Ministry of Health and Local Government the duty of promoting the provision of welfare services and securing the co-ordination of those services with services provided under the Public Health Acts, the Health Services Acts, the National Assistance Act and other "social service" legislation. To assist the Ministry to carry out that duty the Minister is empowered to appoint from time to time Welfare Advisory Committees to advise him on matters relating thereto. Specific power is conferred on the same Ministry to dispose of any property in its hands which previously belonged to workhouses. For the existing law relating to workhouse accommodation and relief there are substituted provisions placing a duty on welfare authorities to provide accommodation for persons who through age, infirmity or other circumstance are in need of care and attention not otherwise available to them; and welfare authorities may by arrangement with voluntary organizations make use of the premises of such organizations for the purpose. A duty is also placed on welfare authorities to

provide temporary accommodation in special circumstances. For all accommodation provided under the Act charges may be made, and may in proper cases be reduced. Provision is made for the recovery of the cost of accommodation from persons liable under the Act for maintenance of their relatives, and for payments under affiliation orders in respect of illegitimate children to be made to the welfare authorities by whom the children are being kept. Welfare authorities are empowered, and in certain cases required, to make arrangements for promoting the welfare of "handicapped" persons, including persons who are blind, deaf or dumb or substantially and permanently handicapped by illness or congenital deformity. Charges may be recovered from those who make use of any of the varied services to be provided under the arrangements. Persons who are suffering from grave chronic disease or are aged or infirm and living in insanitary conditions, and cannot be properly cared for, may, subject to certain safeguards, be removed to a hospital or other suitable place; and the welfare authority has the duty of protecting their property in their absence. Certain local authorities are under a duty to arrange for the burial or cremation of the dead. Section 20 lays some new duties upon welfare authorities, who now must take steps from time to time to ascertain the number of persons in their areas who need or are likely to need or use the several welfare services; must tell the public what services it can have; and must report periodically to the Ministry on the social conditions of their areas and the steps they have taken to carry out their several functions. Welfare authorities are also required to submit to the Ministry proposals as to the performance of their several functions, and to send copies to various other public bodies and to voluntary organizations, and also to the Queen's University of Belfast, which has a Department of Social Studies.

The Social Services (Agreement) (c. 3) ratifies an agreement made between the United Kingdom Treasury and the Northern Ireland Ministry of Finance for the purpose of assimilating the burdens placed on the two Exchequers by the parallel codes of National Insurance, National Assistance, Family Allowances, Health Services and Old Age Pensions legislation, under which the benefits provided throughout the United Kingdom are the same. By the National Insurance (Amendment) Act (c. 20) the maximum Exchequer contribution to the National Insurance Fund is raised from 1 to 1½ million pounds, in conformity with the above-mentioned Agreement.

The Factories Act (c. 6) makes a number of amendments in the Factories Act of 1938. Sections 1 to 3 extend the provisions of the principal Act which relate to the health of young persons employed in factories and in certain outside work. Up to the age of 18 they are to be medically examined each year; and the Ministry of Labour and National Insurance is given extended powers to make special regulations for the medical supervision of young persons exposed to risk of injury to health. S.4 extends the powers of courts of summary jurisdiction to make orders, on the complaint of factory inspectors, for the prevention or removal of danger in factories. The notice, required by the principal Act, of occupation of a factory has now by section 5 become a month's notice of intended occupation. Section 45 of the principal Act required the provision of seating accommodation for certain female workers; section 6 of the present Act is a "Sex Disqualification Removal" provision which extends that requirement to males. Further amendments of the principal Act are directed to the extension of the safety provisions in Part II, and to certain matters of administration and enforcement.

Agriculture.—Agriculture, the staple industry of the Province, has hitherto on the whole had less direct attention from (some might say interference by) the Legislature than any other, if one disregards such things as marketing schemes, ploughing subsidies and drainage grants, the destruction of weeds and pests, or the improvement of livestock. The Agriculture Act (c. 2) has remedied this neglect. In Part I (Agricultural Administration, Education and Development)

sections 1 to 3 substitute new committees for the existing county committees of agriculture. The new committees consist of eighteen members each, of whom half are appointed by the county council and half by the Minister of Agriculture; of the latter half, five are representative of farmers and two of agricultural workers. The committees' functions include the making of proposals and recommendations as to agricultural services in their area, the receiving of applications for, and selecting the recipients of, premiums for the improvement of livestock or poultry, the recommending of the payment by the Ministry of grants to agricultural societies; and the advising of the Ministry on agricultural education. S.4 requires the Minister to establish a general advisory committee to advise him on the administration of the Act, and such other *ad hoc* committees as he may from time to time think necessary to advise him on specific agricultural matters. By S. 5 the Ministry is empowered in the widest terms to provide or arrange for the provision of education in a long list of subjects "and such other subjects as appear to the Ministry to conduce to a knowledge of the science and practice of agriculture or horticulture," words which may sound revolutionary to the "mountainy" farmer who reverently follows atavistic methods. Under the prosaic heading of "Agricultural Development" there are grouped a variety of guises in which the Ministry of Agriculture appears as fairy godmother. It may make grants in respect of the improvement or reclamation of land, the supply of water or electricity, farm roads, flax retting dams, and so forth, and may pay premiums for, and otherwise encourage, the improvement of livestock and poultry; it may make suitable goods and services available for the purposes of the Act, though not so as to compete with private traders; and it may, for and at the expense of a farmer who requests it, carry out drainage or reclamation work requiring "bulldozers" or other heavy machinery. Moreover, the Ministry may incur expenditure for the purpose of eradicating or preventing diseases of animals and poultry, and for the purpose of propagating new kinds of plants or crops. The final flourish of the magic wand evokes grants to agricultural societies formed to hold various kinds of shows and displays; and to clubs and voluntary associations devoted to the advancement of agriculture or the welfare of those engaged in it—*fortunatos sua si bona norint.* Part II of the Act places the Northern Ireland farmer (whether he likes it or not) on a new pedestal of importance as a food producer; but such heights expose him to some dangers. This Part aims at "securing that agricultural land is maintained in good condition and farmed in accordance with the rules of good husbandry, and of safeguarding in the public interest the supply of food or other agricultural products." The "rules of good husbandry" found their way into the English statute book because they were the time-honoured basis of English agricultural leases. But the conception is new to a Province long accustomed to fee-simple ownership and "doing what you like on your own land"; the phrase is fully defined. A farmer who does not play the game according to these new rules is served by the Ministry with an "improvement notice" against which he may appeal to the county court reinforced for the purpose by two assessors of whom one represents farming interests. An improvement notice, unless cancelled by the court or the Ministry, remains in force for five years, but may be renewed in respect of all or part of the lands continuing to be farmed unsatisfactorily. While the notice is in force, the Ministry may from time to time give the occupier of the lands detailed written directions as to the work to be done thereon and the manner of doing it. Failure to comply with such directions renders the defaulter liable to a fine of £100; furthermore, the Ministry may have the necessary work done at his expense. S.21 empowers the Ministry in an emergency to make regulations under which it may give directions to farmers as to the use of their land, so as to safeguard agricultural production, in the public interest. Detailed directions may be given either generally or individually, and defaulters are liable to a fine of £100 or 6 months' imprisonment or both. Such emergency regulations must be laid in draft before and approved by each House of Parliament. S.22 ensures that persons using

land under conacre or agistment agreements shall be under the same duty as the occupier to give effect to the Ministry's directions under this Part of the Act. Improvement notices are to remain in force notwithstanding any change of ownership, and to be entered in a register to be kept by the Ministry and open to public inspection; when so entered they are to be a burden on the lands concerned, even if not registered as such under the Local Registration of Title (Ireland) Act, 1891. Part IV deals with the superannuation of certain officers of county agricultural committees; in Part V (Miscellaneous and General) s.38 amends the Livestock Breeding Act (Northern Ireland), 1922, so as to give the Ministry power to issue different kinds of licences for different breeds of bulls. S.39 extends the Agricultural Returns Act (Northern Ireland), 1939, so as to make agricultural statistics available to serve the purposes of any enactment designed to improve or develop agriculture or help farmers.

The Ryegrass Seed (Temporary Provisions) Act (c. 8) regulates a trade which annually brings some £1¼ million to the Province. During the late war this trade, though mainly carried on in Northern Ireland, was regulated under emergency provisions as part of a scheme extending to the whole of the United Kingdom, and the impending cesser of those provisions made it desirable that some corresponding measure should for the time being replace them. S.1, which is aimed at maintaining the standard of seed, prohibits the taking of more than one harvest of seed from any crop of ryegrass. The purchase and sale of seed is controlled under a licensing system operated by the Ministry of Agriculture, who, as the principal buyers, are to make any necessary arrangements to give effect to the Act, using so far as possible the usual channels of the seed trade. Grades and prices are to be fixed by regulations made by that Ministry after consultation with the Ministry of Finance and with representatives of growers and seed traders. The scheme is financed by a fund fed by the proceeds of the Ministry's dealings under the Act. The Marketing of Poultry Act (c. 14) regulates another prosperous trade for the purpose of maintaining quality. Wholesale dealers are licensed, and poultry may not be exported save under permit. Licence-holders are registered, and provision is made for the inspection of premises and examination of carcases. The Flax Act (c. 18) is designed to secure that during a three-year period growers and others interested in flax production should, with the assistance of the Ministry of Agriculture, progress from the system of emergency control and subsidies to their pre-war untrammelled and unsubsidized economy. Agreement made to that end between the interested bodies are scheduled to the Act. The permanent provisions of the Act deal with the regulation of flax-scutching mills.

Pensions. The Constabulary (Pensions) Act (c. 9) amends the existing code governing the pensions of the Royal Ulster Constabulary, who, as the successors in Northern Ireland of the former Royal Irish Constabulary, have continued to use the former pensions code. The main provisions of the present Act enable service in H.M. Forces to be counted towards constabulary pensions; and enable pension rights acquired in the Royal Ulster Constabulary to accompany a member who transfers to another police force.

The Superannuation Act (c. 13) provides new contributory pension schemes on the British model for pensions to widows and dependents of civil servants. Provision is also made for pensions on premature retirement in certain circumstances, and for the reckoning of what is called "unestablished" service towards the pensions of those who later become "established" and therefore pensionable.

Miscellaneous.—The foregoing classification of the year's legislation has left a small but truly miscellaneous collection to be noted here. The Marriage (Prohibited Degrees of Relationship) Act (c. 17) removed nephews and nieces by marriage from the matrimonial blacklist. The Statistics of Trade Act (c. 7), like the Agriculture Act, though owing much to its Westminster prototype, has been amended considerably to suit the local taste. It amends and consolidates the law

relating to a census of production, which is to be taken annually by the Ministry of Commerce. That Ministry may also provide by order (which must be laid in draft before and approved by each House) for the taking, in respect of a calendar year not earlier than twelve months after the date of the order, of a census of wholesale distribution or a census of retail distribution and services. Persons may be required to furnish returns both for the purposes of a census and, subject to the advice of the Consultative Committee set up under the Act, for the purpose of "obtaining the information necessary for the appreciation of economic trends, and the provision of a statistical service for industry, and for the discharge by government departments of their functions." The Act establishes a Trade Statistics Consultative Committee, which the Ministry of Commerce must consult before requiring any returns or estimates to be furnished under the Act. The Ministry must lay before Parliament a report on every census of production. Information obtained for the purposes of the Act may not be disclosed except for certain purposes. The Public Health and Local Government (Miscellaneous Provisions) Act (c. 21) is a kind of spring-cleaning measure which, amongst other things, extended the powers of sanitary authorities in relation to water supply, made further provision as to the borrowing and repayment of money by local authorities, the powers of local authorities to appoint committees, and the powers of rural district councils as to the numbering of houses and naming of streets. The main object of the Fisheries Act (c. 22) is to place on a self-supporting basis the several boards of conservators charged with the care of the inland fisheries of the Province. To this end certain licence duties payable to the boards are increased, and a small fee is imposed on trout-rod licences; trout-rod licence-holders now for the first time have representation on the boards. Another innovation is the placing of a duty on the boards to stock waters in their districts.

3. THE REPUBLIC OF IRELAND.

[*Contributed by* A. Denis Pringle, *Senior Counsel.*]

Thirty-three Public Acts were passed during the year 1949, which was notable for the coming into operation on April 18 of the Republic of Ireland Act, which had been passed during the previous year.

Finance.—The Finance Act (No. 13) reduced Income-tax to 6s. 6d. in the £ and increased the deductions allowed for dependent relatives. The excise duty on firearms certificates is increased and entertainment duty restored in respect of balls and dances, but entertainments held in a place not situated within 3 miles of a county or other borough, urban district or town with a population exceeding 500 are exempt. Certain relaxations are made in the provisions of the Finance Act, 1941, in regard to death duties payable on annuities or other interests purchased from relatives, and estate duty is made payable in respect of certain policies of assurance affected by virtue, or in consequence of, a settlement made by the deceased. Part V of the Act contains elaborate and complicated provisions intended to fill up loopholes which had been discovered in the provisions of the Finance (No. 2) Act, 1947, in regard to the greatly increased stamp duties on conveyances or transfers of land, which in the case of persons who are not Irish citizens had been raised to 25 per cent. *ad valorem*. In the first place, the stamp duty on leases made in consideration of any money, stock or security (other than rent) is brought into line with the increased duties on conveyances and assignments. Secondly, provision is made for preventing unqualified persons from escaping the increased duties by taking a mortgage or charge, or by the formation of a company, and in certain cases these amendments are made retrospective. The Fifth Schedule to the Act contains the provisions of an Agreement entered into with the government of the United Kingdom for

reciprocal relief from double taxation in respect of Irish Corporation Profits Tax and British Profits Tax, similar to that already existing in regard to Income-tax.

Fisheries.—The Fisheries (Statute Law Revision) Act (No. 27) is expressed to be "an Act to facilitate the intended consolidation of the enactments relating to fisheries, by revising and clarifying certain of the said enactments which have ceased to be in force or have become unnecessary and to amend the said enactments in certain respects." For instance, section 4 provides that, the expressions "fixed net" and "fixed engine" in any of the Fisheries Acts shall be construed as excluding, and as having always excluded, a fishing weir and a fishing mill dam. Part V of the Act contains new regulations as to the use of nets by persons other than the owners of several fisheries. Such persons may not use any net for taking salmon at the mouth of any river or within half-a-mile seaward, or half-a-mile inwards or along the coast from the mouth of the river, nor may they put any net entirely across the mouth or across any other part of a river. New penalties are prescribed for fishing in or near "free gaps" in fishing weirs and for obstructing such free gaps. Provision is made for the dismantling of fixed engines, fishing weirs, and fishing mill dams during the close season for salmon and trout. The owner of a receptacle used for, containing or conveying any deleterious or poisonous matter, which is within 30 yards of any river, lake or watercourse, must provide and maintain such means as will prevent the passage of any such matter into such waters.

Where any offence under the Acts is committed by a Body Corporate and is proved to have been so committed with the consent or approval of, or to have been facilitated by any neglect on the part of, any director, manager, secretary or other officer of such Body Corporate, such director, etc. shall also be deemed to be guilty of such offence.

Infanticide.—The Infanticide Act (No. 16) provides that a woman shall be guilty of a felony namely infanticide, if (a) by any wilful act or omission she causes the death of her child under the age of twelve months and (b) the circumstances are such that, but for the provisions of the Act, the act or omission would have amounted to murder, and (c) at the time of the act or omission the balance of her mind was disturbed by reason of her not having fully recovered from the effect of giving birth to the child, or by reason of the effect of lactation consequent on the birth of the child; and such woman may for that offence be tried and punished as for manslaughter. The Act also provides that on a trial for murder the jury may return a verdict of infanticide in an appropriate case.

Land Reclamation.—The Land Reclamation Act (No. 25) authorizes the Minister for Agriculture to carry out land reclamation, field drainage, construction and improvement of watercourses, removal, construction and improvement of fences and improvement of hill grazing. These works can only be done at the request of the occupier of the lands and the occupier's contribution towards the cost may be paid by a "reclamation annuity" recoverable in the same manner as a Land Purchase annuity. The Minister is given power to clear or repair watercourses, where it appears to him to be necessary for the adequate reclamation of any lands, and he is given powers of access to the lands for this purpose, on giving notice to the occupier and owner. Provision is made for the payment of compensation to persons suffering damage by reason of any interference caused by the execution of works pursuant to the Act.

News Agency.—The Irish News Agency Act (No. 33) makes provision for the formation of a limited company to be called The Irish News Agency, with a share capital of £100, divided into one hundred fully-paid shares of £1 each, one of which shall be allotted to each of the subscribers to the Memorandum and the remainder to the Minister for Finance. The principal function of the Agency shall be "to ensure the collection, dissemination, distribution and publication of news and intelligence inside and outside the State." No member of either House of the Oireachtas shall be eligible to be a Director, and the

Chairman, Managing Director and other Directors shall be appointed by the Minister. Members of the Agency (of which there shall always be at least seven) shall hold their shares in trust for the Minister, and any dividend, bonus and other money received by him shall be paid into the Exchequer. The Minister for External Affairs is empowered to establish a Board (to include representatives of newspaper editors, journalists, correspondents and broadcasting authorities) to advise and assist the Agency in the conduct of its functions, as and when so requested by the Managing Director of the Agency.

4. ISLE OF MAN.

[*Contributed by* His Honour Judge R. D. Farrant.]

The Insular Legislature passed twenty-four Acts of Tynwald in the year 1949 of which the following are those which are of public interest:

The Administration of Justice Act, which affects various alterations in the jurisdiction of the Judges of the High Court of Justice when exercising Summary Jurisdiction and gives them jurisdiction to hear and determine—

(a) any claim for a liquidated sum due under a contract;

(b) any claim for damages for tort or for breach of contract where the amount claimed by way of claim, set off or counter claim does not exceed £200 with provision that any party thereto may apply for the matter to be tried by a Jury, and, if satisfied—

(i) that a charge of fraud against that party; or

(ii) a claim in respect of libel, slander, malicious prosecution, false imprisonment, seduction or breach of promise of marriage;

is in issue, the Judge may order that the matter be transferred to the Superior Jurisdiction of the Common Law Division.

(c) any matter relating to the recovery of land where the rateable value of the land in question does not exceed £200;

(d) any matter in which the title to any land comes in question—

(i) if the rateable value of the land does not exceed £200;

(ii) any matter relating to arrest for rent;

(iii) any matter relating to the hire and service of servants and apprentices;

(iv) any matter in which the parties agree that it be tried in the Summary Jurisdiction;

(v) any matter specifically assigned by any Act of Tynwald.

It is also provided that if on the application of any party to an Action to be tried in the Superior Jurisdiction of the Common Law Division, the Court or a Judge is satisfied that—

(a) a charge of fraud against that party; or

(b) a claim in respect of libel, slander, malicious prosecution, false imprisonment, seduction or breach of promise of marriage,

is in issue, the action may be ordered to be tried with a Jury except where there is prolonged examination of documents or accounts or any scientific or local investigation which cannot be conveniently made with a Jury; but, save as aforesaid, any Action can be so tried in that Division, and it shall be in the power of the Court to order that different questions of fact arising in any Action be tried by different modes of trial.

Provision is also made for any cause not being an Appeal to be transferred from one Division or Jurisdiction to another, or may be retained in the Division or Jurisdiction, although such may not be the proper Division or Jurisdiction of a Division to which the same cause or matter ought in the first instance, to have been assigned.

Provision is further made that—

(1) The offences of treason or murder shall be tried by a Jury of twelve persons;

(2) All other offences shall be tried by a Jury of seven persons, except the Court or Judge direct that it shall be tried by a Jury of twelve persons; and

(3) Provision is made for challenging such Jurors returned upon the panel, but shall in no case be less than twenty;

(4) Provision is made for certain allowances to Jurors in criminal cases.

The Development of Industry Act, gives power to the Governor, if it be expedient in the public interest, for the purpose of facilitating the establishment, reconstruction or development of industries in the Island, and authorizing and empowering the Treasurer, out of monies provided by Tynwald, to give assistance to such persons appearing to the Governor to have facilities for carrying on any such activities, including financial assistance, by grant, loan, guarantee or otherwise, but not exceeding in any year the sum of £100,000, except with the approval of a Resolution of Tynwald, on such terms and on such conditions as the Governor thinks fit.

By the Law Reform (Personal Injuries) Act, the defence of common employment is abolished and provision is made for the measure of damages in respect of industrial injury benefit for the five years beginning with the time when the cause of the Action accrued and this Act binds the Crown.

The Radio-active Substances Act makes provision for the control of the use of irradiating apparatus for therapeutic purposes and the setting up of safety regulations for occupations involving radio-active substances and irradiating apparatus, and powers of entry and inspection is given therewith.

By The National Insurance (Industrial Injuries) (Isle of Man) Act, the 1948 Act is amended and varied.

By The Local Government Act, provision is made for the appointment of an Isle of Man Medical Officer of Health and the appointment of an Inspector and Officer of Local Authorities and Town Districts who may appoint, subject to their qualifications, Standing Deputies.

Provision is also made for the registration and inspection of Nursing Homes and By-laws relating thereto, with power to the Governor to exempt Christian Science Homes with provision as to penalty for offences by companies and proceedings in respect thereto.

By The School Teachers (Superannuation) Act, the provisions of the Teachers (Superannuation) Act, 1945, of the Imperial Parliament is applied to the Isle of Man.

The Interpretation Act makes provision for further shortening the language used in Acts of Tynwald and the interpretation of certain terms, and the effect of the repeal of enactments, and power is given to the Governor to provide for execution of duties of public officers during temporary absence or inability with power to the Governor to delegate authority, and other provisions relating to public documents and their interpretation.

By The Education Act, the whole of the provisions of the Education Acts are re-enacted and the said Acts from 1923 to 1946 are repealed, with the exception of The Employment of Women, Young Persons and Children Act, 1930.

The whole of the Licensing Acts from 1929 to 1947 are repealed and re-enacted with amendments by The Licensing Consolidation Act, relating to the sale of intoxicating liquors.

By The Purchase-tax Act, the whole of the existing Acts and Resolutions of Tynwald from 1940 to 1949 are repealed and re-enacted with certain amendments.

By The Income-tax Act, the principal Act is amended in various respects which are set out in the twenty-two sections. By the twenty-third section, any individual who is liable to Manx Surtax, and who is liable to pay United Kingdom Income-tax on any part of his income is allowed a deduction from the Surtax

payable by him of an amount which bears the same proportion to the Surtax payable on his total income as one-half the amount of income liable to United Kingdom Income-tax bears to the amount of his total income. The amount of such Surtax applies in respect of the excess of £2,000 a year, and for the purposes of this provision the standard rate shall be determined each year by Resolution of Tynwald.

By The Tithe Act, power is given to the Bishop, Archdeacon, Proctor and Crown representative to reduce tithe rent payable in respect of tithe.

By The Improvement of Livestock Act, there are restrictions on the keeping of bulls, rams or boars and licences and permits therefor are required subject to conditions which shall be specified on such licences. A licence in respect of a bull, ram or boar may be refused or revoked if any condition of the licence is contravened or not complied with.

Power is given to order the slaughter or castration of bulls, rams, or boars, and provision is made for the importation of bulls, rams or boars rejected in the United Kingdom, Eire or the Channel Islands.

Provision is made for special permits in connection with the eradication of bovine tuberculosis, for the eradication of diseases of poultry, and power is given to the Board of Agriculture to establish centres for the purposes of artificial insemination and its control.

By The Veterinary Surgeons Act, provision is made for restricting the practice of veterinary surgery by unqualified persons for the setting up of a Supplementary Veterinary Register and for its correction, the use of descriptions as to professional status and the notice of death of practitioners and the exemption of veterinary practitioners from restrictions on buying and selling poisons, etc., and their exemption from Jury Service.

By The Rural Housing Act, the power of the Board of Agriculture to submit schemes for the rebuilding, reconstruction and improvement of agricultural dwellings and to authorize financial assistance to be given in the manner provided by the principal Act shall extend to the provision of new agricultural dwellings where such dwellings do not provide adequate, suitable or convenient housing accommodation for the efficient working of such holdings and certain provisions are made in the existing restrictions to provide therefor and it is provided that the Treasurer may with the approval of Tynwald from time to time advance to the Agricultural Improvements Fund grants or loans free of interest out of monies provided by Tynwald equal to the amount of the grants or loans advanced by the Treasurer under this Act, such loans to be repayable in accordance with the terms provided in the Resolutions of Tynwald authorizing advances to be made, which loans free of interest shall be a charge under the National Health Service (Isle of Man) Act, 1948, as Tynwald may, in respect of each such financial year, with the approval of the Governor, determine.

By The Road Traffic Act, provision is made relative to inquiries and appeals, and to compel the attendance of witnesses, the production of documents, and evidence on oath, and to proceedings under such Act.

II. NORTH AMERICA.

1. DOMINION OF CANADA.

[*Contributed by* E. A. Driedger, Esq., K.C., *Parliamentary Counsel.*]

There were two sessions of Parliament during the year 1949, namely, the Fifth Session of the Twentieth Parliament, which began on January 26 and was closed by prorogation on April 30, and the First Session of the Twenty-first Parliament, which began on September 15 and was closed by prorogation on December 10.

In all, 430 Acts were passed, of which sixty-three were public and 367 were local and private; the local and private Acts included 349 divorce Acts.

Agriculture.—The Livestock Pedigree Act consolidates and revises existing law respecting incorporation and regulation of associations formed for the purpose of keeping records of pure-bred domestic livestock. The Act simplifies the procedure for incorporation and affiliation, and defines the relationship between affiliated associations and the Canadian National Livestock Records.

An amendment to the Animal Contagious Diseases Act revises the scale of compensation payable in respect of animals slaughtered pursuant to the Act.

The Agricultural Products Marketing Act authorizes the Governor in Council to grant authority to provincial marketing agencies to regulate the marketing of agricultural products in interprovincial and export trade.

An amendment to the Cheese and Cheese Factory Improvement Act authorizes the payment of a premium to producers of cheese of superior quality.

The Agricultural Products Act, which authorizes the Minister to carry out agreements with other countries for the sale or export of food supplies, was continued in force for another year.

An amendment to the Prairie Farm Assistance Act reduces the size of blocks of lands in respect of which assistance may be paid.

Banking.—An amendment to the Act establishing the Industrial Development Bank, an agency of the Crown, provides that actions, suits or other legal proceedings may be brought or taken by or against the Bank in the name of the Bank. The Bank's authority to make loans to persons engaged or about to engage in industrial enterprises is extended.

Bankruptcy.—A new Bankruptcy Act revises and consolidates existing bankruptcy legislation. The new Act permits debtors to make proposals for compositions, extensions and schemes of arrangement, to be carried out under the direction of the court. The procedure in assignments is simplified where the estate is less than $500.

Combines.—An amendment to the Combines Investigation Act facilitates enforcement of the Act and related provisions of the Criminal Code. The amendments relate to court procedure concerning undue monopolistic trade restrictions and unlawful combinations in restraint of trade.

Constitution and Government.—The agreement between Canada and Newfoundland, entered into on December 11, 1948, providing for the entry of Newfoundland into the Canadian Confederation, was approved by Parliament; the union became effective on March 31, 1949.

Three new departments (Department of Citizenship and Immigration, Department of Resources and Development, Department of Mines and Technical Surveys) are established in lieu of the Department of Reconstruction and the Department of Mines and Resources. The Department of Citizenship and Immigration has charge of naturalization and citizenship, Indian affairs, immigration and colonization; the Department of Mines and Technical Surveys administers all matters within the jurisdiction of Parliament relating to mines, minerals, explosives and technical surveys; and the Department of Resources and Development has charge of all matters over which Parliament has jurisdiction relating to the forest resources of Canada, irrigation projects, the national parks, the archaeology, ethnology and fauna and flora of Canada, tourist information and services, housing and the Trans-Canada Highway, and is also given the control and management of the affairs of the Yukon Territory and the Northwest Territories.

The Surplus Crown Assets Act, which originally provided for the disposal of surplus war materials and supplies, is amended so as to provide a permanent agency for the disposal of surplus Crown assets.

Criminal Law.—Two Acts amend the Criminal Code. The first amending Act adapts the Criminal Code to the new Province of Newfoundland. The second

amending Act makes it an offence to sell magazines, periodicals or books that exclusively or substantially comprise matter depicting pictorially the commission of crimes.

Communication.—The Canadian Overseas Telecommunication Corporation Act establishes a Crown corporation for the purpose of taking over the property and equipment of two private companies operating external communication services. The communication services formerly carried on by these private companies will be operated by the Corporation and co-ordinated with the communication services of other parts of the Commonwealth.

Family Allowances.—An amendment to the Family Allowances Act shortens from three to one year the residence period required as one of the conditions of eligibility of a child. It also removes the decreasing scale of the amount of allowance payable where more than four children are maintained.

Fisheries.—The Fish Inspection Act authorizes the Governor in Council, for the purpose of regulating the export or import of fish, to make regulations prescribing grades and standards and respecting the processing, storing, grading, packaging, marking, transporting and inspection of fish. The Act also prohibits the export of marine plants unless inspected, graded, marked and labelled in accordance with regulations.

Forestry.—Under the Canada Forestry Act laboratories may be established for experiment and demonstration in forest management and silviculture. There is provision for the conservation of forests on any lands belonging to the Crown in right of Canada.

Highways.—The Trans-Canada Highway Act authorizes the Governor in Council to enter into agreements with the provinces for the payment of contributions in respect of the construction of a Trans-Canada Highway.

Housing.—An amendment to the National Housing Act authorizes additional loans by the Central Mortgage and Housing Corporation, permits the Corporation to join with the provinces in the appropriation of land and the construction of houses, increases the amount of a loan that may be guaranteed for home improvement or home extension purposes, and extends to co-operative associations the provisions of the Act relating to co-operative housing projects.

Judiciary.—An Act to amend the Supreme Court Act abolishes appeals to the Privy Council, enlarges the jurisdiction of the Supreme Court and increases the number of judges from seven to nine. By an amendment to the Judges Act the salaries of the judges of the Supreme Court of Canada are increased.

An Act to amend the Exchequer Court Act extends the time for appeal to the Supreme Court to sixty days, authorizes appeals from interlocutory judgments and simplifies the procedure in appeals. The judges are also empowered to make rules for the examination for discovery of Crown officers and rules for the medical examination of persons in respect of whose injury a claim is made.

Mining.—An amendment to the Emergency Gold Mining Assistance Act authorizes the grant of assistance to mines producing low-grade ore.

The Maritime Coal Production Assistance Act authorizes the Minister to make loans to coal producers for the purpose of carrying out undertakings designed to increase the efficiency of the operations of a coal producer by means of mechanization.

National Parks.—An amending Act alters and re-defines the boundaries of three of the National Parks.

National Trade Marks.—The National Trade Mark and True Labelling Act establishes a national mark and prohibits its use unless the product to which it is applied conforms to the standards prescribed by regulation.

Old Age Pensions.—An amendment to the Old Age Pensions Act increases the maximum pension from $30 to $40 per month.

Pipe Lines.—The Pipe Lines Act provides for the control of interprovincial and international oil and gas pipe lines. The Act applies to all pipe line companies incorporated by special Act.

Shipping.—The Canadian Vessel Construction Assistance Act permits special Income-tax deductions in respect of the capital cost of new or converted vessels.

Statutes.—The Statute Law Amendment (Newfoundland) Act implements the Terms of Union of Newfoundland with Canada and adapts the statute law of Canada to the new province.

Transitional Measures.—The Continuation of Transitional Measures Act of 1947 is continued in force for another year, but authority to promulgate control regulations is limited to the subject matter of existing orders.

Veterans.—An amendment to The Veterans' Land Act, 1942, clarifies a number of administrative difficulties and makes provision for a second re-establishment where a veteran for good reason is required to leave the locality in which he had previously settled under the provisions of the Act.

2. MANITOBA.

[*Contributed by* G. S. Rutherford, Esq.]

The following is a brief summary of the more important legislation enacted at the 1949 session of the Legislature of Manitoba. This does not include amendments to The Municipal Act or to the various city charters or any other municipal legislation, some of which is very important as it deals with taxation changes.

Public Works.—Section 10 of The Public Works Act (c. 50) vests the jurisdiction, control and possession of provincial trunk highways in the Government. The purpose of this year's amendment is to ensure that the taking over by the Government of such jurisdiction, control and possession does not relieve a municipality of responsibility for any negligence on its part in carrying out municipal work on, over or under the highway to which it would otherwise have been subject if jurisdiction over and control and possession of the highway had remained in the municipality.

Farm Implements.—The definition of a "large implement" is amended by adding thereto the names of three additional implements. An amendment is also made to the Act whereby it is made an offence to alter or remove the manufacturer's serial number on a tractor or on the engine thereof. (Farm Implements Act, c. 18.)

Frustrated Contracts.—The Frustrated Contracts Act (c. 21) is recommended by the Conference of Commissioners on Uniformity of Legislation in Canada. It follows in principle, although not in wording, the United Kingdom Act of 1943 on the same subject. This Act enacts new law to apply in the case of contracts that have become impossible of performance or been otherwise frustrated and the parties to which, for that reason, have been discharged. The old rule that "the loss falls where it lies" is abrogated. Sums paid on a frustrated contract are recoverable and sums payable cease to be payable. This, of course, is subject to the right of persons who have incurred expenses in connection, with the performance of the contract, to apply to the court to be allowed to retain part of the sums paid or payable.

Evidence.—The new provisions of The Manitoba Evidence Act (c. 17) replace, in greater detail, the provisions of the present paragraph (k) of section 57 of the Act. Power is given to the officials mentioned to take affidavits outside the province for use therein. These provisions were recommended by the Conference of Commissioners on Uniformity of Legislation in Canada.

Dower.—An amendment is made to section 3 of the Dower Act (c. 12) to

provide that where a wife has a joint interest in land with her husband, her signature, along with his, to a transfer, deed, mortgage, agreement for sale or similar document disposing of an interest in the land, shall be sufficient without a separate consent under The Dower Act being also required. This amendment was recommended by the Manitoba Bar Association and overcomes the effect of the judgment in *Wimmer v. Wimmer*. There is also a further amendment to the Act, the effect of which is that the filing of an order made under section 11 or section 21 shall be sufficient to discharge a caveat under section 27.

The Child Welfare Act.—A number of administrative amendments have been made to this Act. These deal with the guardianship of bereaved and dependent children and the enrolling of bereaved and dependent children for allowances. The new provision enacts that where a neglected child is enrolled for an allowance as a bereaved and dependent child and an order for maintenance of the neglected child has been made against a municipality, the order is suspended so long as the child is in receipt of an allowance as a bereaved and dependent child.

Miscellaneous,—The Revised Statutes Act, 1949 (c. 57) is a preliminary Act to authorize the commencement of work on the revision of the statutes.

An amendment to the Fish Dealers Act provides that a licence must be obtained by any person who acts as agent in the buying and exporting of fish for a person who is not a resident in and carrying on business in the province.

The Well Drilling Act (c. 72) is amended. The definition of the word "well" is altered and there is a provision that even a well which is dug with the the purpose of obtaining water for domestic purposes on agricultural land shall be a well within the meaning of The Well Drilling Act if it is more than 500 feet in depth. In such case, the person drilling the well is required to make certain returns and otherwise comply with The Well Drilling Act.

An Act to provide Special Assistance to Municipalities for Old Age and Blind Pensioners (c. 42) makes provision for an increase in the payment to be received by certain old age pensioners subject to the conditions set forth in the Act.

The amendments to The Teachers' Retirement Allowances Act (c. 69) are mostly of an administrative character. They are chiefly of interest to teachers and to some extent they increase the benefits receivable by teachers under the Act.

At present the cut-off date for making applications for refund of Gasoline-tax is March 15 in the year following the purchase of the gasoline. The new amendment to The Gasoline-tax Act (c. 66) provides for a steadily-decreasing amount of the tax to be refunded after March 15 up to September 1, as provided in the Bill. After September 1, none of the tax is to be refunded.

An amendment to The Marriage Act (c. 36) provides that every clergyman or other person authorized to solemnize a marriage must be 21 years of age.

The Law of Property Act (c. 32) is amended. Since a married person may be a joint owner of land, either with his or her spouse or with one or more other parties, a right under The Dower Act may arise in respect of property in which the spouse has only a partial interest. This may prevent other parties realizing their rights by partition of the property or by sale where partition is not reasonably possible. The amendments enacted by this Bill allow partition, or sale in lieu of partition, to be ordered by the court; but in such case the value of The Dower Act rights is to be ascertained and paid to the spouse entitled thereto.

By an Act to amend The Mining Royalty and Tax Act (c. 67) arrangement is made for a special method of collecting the tax in certain cases set out in the statute and, in addition, it is provided that mining claims that are held under patent and not under lease shall also be liable for the mining claim tax.

The amendments made to The Public Schools Act (1) (c. 48) are almost entirely of an administrative character. One amendment of general interest is a provision that school districts in unorganized territory may make contracts for

street lighting with any corporation supplying electric power and that levies may be made therefor. An amendment to The Public Schools Act (2) (c. 49) of general interest is to the effect that neither the School District of Winnipeg No. 1 nor its trustees, servants, or agents, nor any of them, shall be deemed to be guilty of negligence solely by reason of the fact that a pupil who is required to wear eye-glasses is permitted to take part in physical training, games, etc.

In view of the enactment in 1948 of the new Dominion Income-tax Act, it became necessary to redraft The Manitoba Corporation Income-tax Act so that the wording might be, in so far as possible, co-ordinated with the Dominion statute. The Dominion officials, by arrangement, collect the tax on corporations imposed under both these Acts. It is provided in a new Act that provisions of the former Act, namely the Manitoba Corporation Income-tax Act, are not applicable to taxation years after the 1948 taxation year. The former Act, of course, remains in force in order to permit of the collection of the taxes imposed thereunder. It was also necessary to make certain amendments to the former Act because of similar amendments made to the Dominion statute, The Income War Tax Act.

The principal amendment made to The Real Property Act (1) (c. 51) is to provide that where in an application to bring the title of land under The Real Property Act a direction is given and a title issued to some person other than the applicant, then that direction must be accompanied by a consent or other evidence required by The Dower Act. If an application is filed without such Dower Act material, the district registrar may return it and it shall be deemed not to have been filed. The return of the application is not to be classified as a formal "rejection."

The Social Assistance Act (c. 55) provides for the granting annually of the sum of $300,000 to the municipalities of the province. The total sum is to be divided among the municipalities on the basis of the cost of the social assistance provided by the municipality during the year. The meaning of "social assistance" is defined in the Act.

The Department of Industry and Commerce Act (c. 30) repeals the former Act which was chapter 102 of the Revised Statutes of Manitoba, 1940. It also repeals The Travel and Publicity Bureau Act. The department set-up is reorganized and divided into two bureaux, namely, The Bureau of Industrial Development and The Bureau of Travel and Publicity.

An amendment to The School Attendance Act reduces the period during which a child may be released from attending school for the purposes of husbandry or household services from six weeks in any school term to four weeks in any school year.

An alteration is made in the exemption from taxation in respect of amusements, part of the proceeds of which go to charity and the exemption of taxation in respect of lectures of an educational nature is also removed. A new schedule to The Amusement Act containing the tax on prices of admission is enacted.

The Garage Keepers Act (c. 23) is amended by an Act redefining the meaning of "service" and providing that in order to be "service" within the meaning of the Act, repairs must be done by or under the supervision of qualified mechanics. There was no requirement as to qualified mechanics in the former legislation.

There are companion amendments to The Mental Diseases Act (c. 39) and The Lunacy Act (c. 34). It is sometimes desirable to place a mentally-diseased person under supervision without necessarily confining him to an institution. One advantage of this procedure to the mentally diseased person is that he then becomes a mentally incompetent person within the meaning of The Lunacy Act and it is possible for the Administrator of the Estates of the Mentally Incompetent to take charge of his estate. This is the effect of these two Acts.

An amendment removes the practice of dentistry from the application of The Basic Sciences Act.

There are companion amendments to The Electoral Divisions Act (c. 15) and The Legislative Assembly Act (c. 33). These Acts are not yet in force since they come into force on proclamation and at the time of the preparation of this memorandum have not yet been proclaimed. The effect of the two Acts is to create forty-seven electoral divisions returning fifty-seven members. There are forty-three single-member divisions, one two-member division (St. Boniface), and three four-member divisions (the newly-created divisions of North, Centre and South Winnipeg).

The Coarse Grain Marketing Control Act (c. 9) is also to come into force on proclamation and at the time of preparation of this memorandum has not been proclaimed. The effect of the statute is that no producer shall sell coarse grains in Manitoba for delivery within the province to any person other than the Canadian Wheat Board and no person shall purchase grain in Manitoba for delivery within the province unless grain is purchased on account of the Canadian Wheat Board. Exceptions to this rule are made in the case of sale to and purchases by producers or owners of livestock or poultry in the province. Contracts made in contravention of the Act are declared to be void. Penalties are provided for failure to observe the provisions of the Act.

The principal provisions of The Margarine Act, 1949 (c. 35) are: (1) Margarine shall not be sold unless the word "margarine" appears on the main panel of the package in conspicuous letters and a list of the ingredients in the margarine appears thereon together with the net weight of the product and the name and address of the manufacturer. (2) Persons operating public eating places where margarine is served must cause the words "margarine served here" to be prominently printed on every menu or bill of fare and if there is no menu or bill of fare then the same words must be displayed in a conspicuous place. (3) Margarine must not be sold if it has a tint or shade containing more than six-tenths degrees of yellow or of yellow and red collectively. (4) Margarine must not be sold if it contains over 60 per cent. of water or less than 80 per cent. of fat. (5) Misleading advertisements respecting margarine are forbidden and, in particular, it is forbidden to state or imply that the margarine has a relation to any dairy product other than skim milk and it is also forbidden to depict a dairy scene in any margarine advertisement. (6) The mixing of margarine with butter for purposes of sale or use in public eating places is forbidden. (7) It is forbidden to manufacture or sell margarine by wholesale, within the province, without first obtaining a licence from the Minister of Agriculture and Immigration. Penalties and other enforcement provisions are included in the Act.

A considerable number of amendments to The Highway Traffic Act (c. 26), many of administrative character, are made. Particular note should be taken of the amendments respecting the lighting that may be carried. The general effect is that in the case of the ordinary owner or driver a spot-lamp, if carried, must be fixed in a position stated in the statute. The right to carry swivel searchlights and certain other equipment mentioned in the statute is restricted to certain types of vehicles also mentioned in the Act, such as ambulances, police vehicles, etc. This kind of lighting equipment may also be carried, in exceptional cases, if a permit is obtained from the Registrar of Motor Vehicles.

Another amendment which should be noted is that with certain exceptions a person shall not drive a motor vehicle on a highway with anything obstructing the view from the front windshield, side wings, side or rear windows. This means that generally speaking the practice of putting stickers or other non-transparent material on any of the windows of a motor vehicle is forbidden.

Where a driver is required to furnish proof of financial responsibility and has been unable to to so, as a result of which his driver's or chauffeur's licence is suspended, he may obtain from the Registrar a special licence authorizing him to drive only a vehicle owned by a person who furnishes to the Registrar proof of financial responsibility on his own behalf, and who is either a member of the family or an employer of the person whose licence has been cancelled.

Another provision relates to the case where a motor vehicle has been impounded and the owner decides to give up his licence and quit driving and sell the vehicle. In such a case there would appear to be no reason to insist on his putting up proof of financial responsibility for the future before the impounded vehicle is released. The amendment provides that if a person in that position satisfies the Registrar that he has made an actual outright *bona fide* sale, the Registrar may release the vehicle. It must be pointed out that security must be given for any damages done in the accident by reason of which the vehicle was impounded.

In the former Act, there was a provision that if an order was obtained against The Unsatisfied Judgment Fund only one-half of the taxed fees and all of the disbursements would be paid out of the fund. This provision is now removed. The costs which may now be recovered are the costs as taxed on a party and party basis provided, however, that not more than $100.00 for fees be allowed in respect of an application under section 128M, and in so far as any cost of an action is concerned, there shall not be paid out of the fund more than the costs that would be allowed where the statutory bar is not removed.

The amendments of chief public interest in an Act to amend The Game and Fisheries Act (c. 22) are: (1) Reduces the time for hunting game birds. Formerly the time during which game birds could be hunted was between one hour before sunrise and one hour after sunset. The legal time is now from one half-hour before sunrise to one half-hour after sunset. (2) Where authority is given in the Act to seize a vehicle, it is to be deemed to include authority to seize any animal by which the vehicle is being drawn at the time of the seizure.

The stated intent of The Manitoba Hydro-Electric Development Act (c. 29), is to promote the public interest by providing for the generation, development, transformation, transmission, supply and use of power in Manitoba and by authorizing and empowering the board, with the approval of the Lieutenant-Governor-in-Council to acquire property for the above-mentioned purpose. The Manitoba Hydro-Electric Board is established and created a corporation. The Board is authorized, subject to the approval of the Lieutenant-Governor-in-Council, to generate, develop and transmit power and to sell power and to do a large number of other things that are ancillary to those above mentioned. The board is declared to be an agent of His Majesty and it is provided that with the consent of the Attorney-General an action may be brought against the board for anything done or omitted in the exercise of its office. Where property is expropriated Part I of The Manitoba Expropriation Act, is so far as applicable, applies.

The Veterinary Services Act (c. 70) provides for the establishment of veterinary services districts comprised of one, two, three or four rural municipalities. It also provides for the establishment of a central supervisory commission to be known as The Veterinary Services Commission. The boards of veterinary services districts are authorized to enter into contracts with veterinary surgeons to encourage them to practise veterinary medicine and surgery in the respective districts. For that purpose, the board of a district may agree to pay the veterinary surgeon in each twelve months a sum of not less than $2,000. One thousand dollars is to be apportioned among the municipalities comprising the district and paid by them in equal shares to the board of the district. Additional financial requirements not exceeding $300 may also be charged against the various municipalities by the board of the district, but any such additional sum is not payable by a municipality unless it agrees thereto. The Provincial Treasurer is also authorized to make a grant of $1,000 to the board of each district. Provision is made for the withdrawal of municipalities from districts and for the winding up of a district and for the keeping of accounts. Supervision of the Act is in the hands of The Veterinary Services Commission. Provision is made that the agreements made between the board of a district and the veterinary surgeon shall include clauses respecting the fees that may be charged by the veterinary to persons residing in the district.

An Act to amend The Hospital Aid Act (c. 27) provides a new scale of the grants that are to be payable to hospitals. It also provides for the charges that may be made by hospitals against municipalities in respect of residents of the municipality who have been patients of the hospital. Authority is also given for the making of grants for the training of medical students. Authority is given to make regulations respecting certain administrative matters.

The Hours of Work Act (c. 28), which comes into operation on July 1, 1949, applies only in certain areas set out in Schedule B to the Act which may be generally described as Greater Winnipeg, Brandon, Portage la Prairie, Flin Flon and Selkirk. For an exact list of the municipalities see the Act itself. Subject to certain conditions and exceptions, no employer may require or permit an employee to work or be on duty for more than eight hours in any day and, if a male employee for more than forty-eight hours in any week and, if a female employee for more than forty-four hours in any week unless he pays overtime rates of one-and-one-half times regular wages. A number of exceptions and qualifications are set out in the Act. The Act applies to industrial undertakings set out or described in Schedule A to the Act.

The Metropolitan Planning Act (c. 40) applies only to the area set out in the Act and which may be generally described as Greater Winnipeg. A commission is set up to take over the assets and assume the liabilities of the Metropolitan Planning Commission of Greater Winnipeg. The duties of the commission are stated to be to investigate and survey conditions in relation to the development of the metropolitan area and in particular, to prepare plans in respect of town planning, zoning, transit, traffic, or other similar matters and to make recommendations in respect thereto.

An Act to amend The Real Property Act (2) (c. 52) provides for the vesting of certain reservations in the Crown in the case of certain lands that have been sold or are hereafter sold at tax sales. This amendment may prove of great importance in certain cases and members of the legal profession should check its provisions very carefully, particularly since its provisions are retroactive to January 1, 1945.

An Act to amend The Predator Control Act (c. 45) revises the bounty provisions particularly with respect to timber wolves.

3. NEW BRUNSWICK.

[*Contributed by* M. M. Hoyt, Esq., *Senior Solicitor* (*Associate*).]

In 1949 the New Brunswick Legislature enacted 155 Acts of which 62 were Public and 93 were Private. The most important Public Acts are mentioned below.

Artificial Insemination of Livestock.—C. 16 provides that a Board shall be established to act in an advisory capacity to the Minister of Agriculture and that regulations may be made providing for the licensing of artificial insemination associations and technicians.

Contracts.—Subject to exceptions C. 19 applies to any contract governed by the law of the Province that has become impossible of performance or been otherwise frustrated and the parties to which for that reason have been discharged.

Marshlands.—C. 22 is an Act to encourage the development and rehabilitation of marshlands.

Oleomargarine.—C. 23 provides standards of quality for oleomargarine.

Tradesmen's Qualifications.—C. 24 provides that a Board of Examiners may be appointed to examine certain tradesmen and to issue certificates of qualification in respect of the electrical trade, the electric welding trade and the gas welding trade.

Instalment Buying.—Subject to exceptions C. 38 provides that a conditional sale shall be unenforceable as such unless there is paid at the time of purchase 15 per cent. of the purchase price and the balance within twenty-four months.

Highway Safety.—C. 43 provides that regulations may be made to establish a Highway Safety Commission and to define its powers and duties.

Potato Industry.—C. 50 provides that registration areas may be established for the promotion and development of the potato industry.

4. NOVA SCOTIA.

[*Contributed by* HENRY F. MUGGAH, ESQ., *Legislative Counsel.*]

1948.

ONE-HUNDRED-AND-FIFTY-EIGHT Acts were passed by the Legislature of Nova Scotia in 1948, of which seventy-six were Public, thirty were Local and fifty-two were Private.

Co-operatives, C.2.—This Act provides a method of incorporation of associations for the purpose of carrying on "co-operatively any lawful business, enterprise or service other than that of a banking, a loan, a trust or an insurance company," and contains a comprehensive statement of the powers possessed by such associations. Incorporation is effected by registering a Memorandum of Association with the Registrar of Joint Stock Companies and complying with other provisions similar to those applicable to ordinary joint stock companies. The Governor in Council is empowered to make what are called standard by-laws for the conduct and management of the business and affairs of co-operatives and the co-operatives themselves are empowered to make supplementary by-laws covering their several individual requirements.

In the main, the Act is quite similar to the Companies Act, but a number of limitations have been imposed upon associations incorporated under it; for example, an association is prohibited from making contributions of any sort to political parties; it must obtain the approval of the Inspector of Co-operative Associations before commencing business or opening a new branch. On the other hand, associations are granted some privileges that are not enjoyed by ordinary companies. The co-operative may transfer the shares of a deceased member to a person nominated by him if probate administration of that person's estate is not granted within six months after his death. An association may purchase the shares of a member who wishes to withdraw from membership, subject to a maximum re-purchase of 10 per cent. of the authorized capital in any year and a total of 25 per cent. in all. A co-operative is authorized also, to distribute its net earnings in such manner as its by-laws may prescribe. This permits payment of what is known as a Patronage Dividend to customers or Patrons of the association as well as shareholders. The principle of allowing a member only one vote at meetings of the corporation regardless of the number of shares held by him is continued.

Industrial Assistance, C.3.—This Act creates an Industrial Assistance Fund to be used for the making of loans or the guaranteeing of loans of money to be used in establishing or developing industries in the Province. An Industrial Assistance Advisory Board is provided for, with the function of advising the Minister of Trade and Industry on matters affecting the establishment and development of industry generally and on particular loan applications. The industries to which the Act applies, the amount of loans that may be made, the rate of interest to be collected, and the conditions upon which loans are made, are to be prescribed by regulations of the Governor in Council.

Municipal Loans, C.4.—This Act provides for the establishment of a revolving fund, known as the Municipal Loans Fund, from which loans may be made to

cities, towns, or rural municipalities for the construction, extension and improvement of public services, including waterworks and sewers, and for the erection and alteration of schools, jails and other municipal buildings.

Industrial Property, C.5.—This Act empowers the Minister of Trade and Industry to act, in effect, as a purchasing agent for persons desiring to acquire lands for the purpose of carrying on industries in the Province.

Pensions, C.6.—This Act empowers the Governor in Council to authorize the payment of a Cost of Living Bonus to persons receiving pensions from the Province under The Teachers' Pension Act or The Public Service Superannuation Act. The classification of persons entitled to receive the bonus and the amount of the bonus are to be fixed by regulation.

Divorce, C.8.—Amendments to the pre-Confederation Act of 1866 relating to Divorce are contained in this Act and provide that any of the Judges of the Supreme Court may be appointed Judges of the Court for Divorce and Matrimonial Causes. Provision is also made for the appointment of local Deputy Registrars of the Court. Formerly, only one Judge of the Supreme Court was designated as Judge in Divorce, and the Court tried cases only at Halifax. Since the amendment, all Judges of the Supreme Court have been appointed to be Judges of the Divorce Court, and under amendments to the rules cases are now triable at any place in the Province where the Supreme Court sits.

Public Offices, C.9.—Amendments to various Acts relating to the offices of Registrars of Deeds, Registrars of Probate, Sheriffs, Prothonotaries, and Clerks of the Court are contained in this Act, and empower the Attorney-General to prescribe the days and hours during which those offices shall be open for the transaction of business.

Housing Agreements, C.16.—By this Act authority is given to cities, towns and municipalities, with the approval of the Minister of Municipal Affairs, to enter into and carry out agreements relating to the construction of housing accommodation, slum clearance, or town planning with Central Mortgage and Housing Corporation, an agency of the Government of Canada, or with any other corporation having similar objects.

Pensions, C.18.—The principal change contained in this amending Act is one that empowers the Governor in Council to determine to what extent and under what conditions service with an employer other than the Province may be considered to be service with the Province for superannuation purposes, and the manner in which transfers may be made from the Provincial Superannuation Fund to a similar fund of another employer into whose service a Provincial employee enters.

Insane, C.24.—Amendments are made by this Act to the Act relating to the Nova Scotia Hospital, which is a hospital maintained by the Province for the treatment of mentally ill persons. The sections of that Act providing for the imposition and collection of charges for treatment of most classes of patients are repealed with the result that free treatment is provided by the Province for the great majority of persons suffering from mental illness.

Registration of Deeds, C.28.—The Governor in Council is empowered to make regulations for securing uniformity in records, indexes, and equipment in registries and uniformity in plans deposited in registries. Registrars of Deeds are required to prepare and maintain at the expense of the municipalities consolidated indexes of instruments recorded in their offices.

Insurance, C.33.—The amendments contained in this Act relate to claims other than claims under life insurance policies and provide that claims are not vitiated by a violation of law unless the violation was committed by the insured or someone with his consent with intention to bring about the loss or damage.

Intoxicating Liquor, C.40.—Under the former legislation, liquor could be sold only by the Government Commission at Commission stores for consumption in the purchaser's residence. By the amendments contained in this Act, provision

is made for plebiscites in cities, towns or municipalities on the question of the sale of beer and wine by the glass or open bottle. In the event of an affirmative vote on that question, sales in taverns and in hotel dining-rooms may be made by persons holding licences from the Tavern Licence Committee.

Companies, C.46.—Companies are authorized to issue preference shares to be redeemed or purchased by the companies out of profits or the proceeds of fresh issues, if the shares to be redeemed or purchased are fully paid up. The Court is given additional authority in respect of applications for its approval of reduction of capital of corporations. Some classes of creditors are entitled to object to a reduction of capital by a corporation and the Court is empowered to prescribe in its approving orders terms for the protection of creditors. In addition, the Court may in an order approving a reduction direct the company to add to its name for a period to be prescribed by the Court the words "and reduced" and the Court may direct the company to advertise its reasons for making the reduction and such other information respecting the reduction as the Court considers expedient, with a view to giving proper information to the public.

Public Health, C.52.—Persons suffering from open tuberculosis may be required to submit to examination and treatment in hospital. A medical health officer may require any person whom he suspects is suffering from open tuberculosis to submit to an examination where the officer feels that it is required in the interests of the public health. A person, who is suffering from open tuberculosis, who is unable or unwilling to conduct himself in a manner that will not expose other persons to danger of infection, and who refuses to submit to treatment in a hospital or sanitorium may be charged before a magistrate, and if the charge is proven the magistrate may order the person to be admitted to and detained in a sanitorium for a period up to one year. This period may be extended by the magistrate from time to time for additional periods not exceeding one year. If the Minister of Public Health is of the opinion that a person so committed is no longer suffering from open tuberculosis, he may order his discharge before the end of the term fixed by the magistrate. The cost of administering the Act and providing the treatment is borne by the Province.

Vital Statistics, C.70.—Formerly, the Certificate of Birth issued to a person whose name had been changed was issued in the original name, with an annotation of the change. This Act permits the issue of the Certificate of Birth in the new name where the change has been made by or under the authority of legislation.

1949

ONE-HUNDRED-AND-THIRTY-EIGHT Acts were passed by the Legislature of Nova Scotia in 1949, of which sixty-nine were Public, twenty were Local, and forty-nine were Private.

Marshlands, C.2.—Legislation by the Government of Canada and agreements between that Government and the Government of the Province for participation by them jointly in the construction, reconstruction and maintenance of dykes and other works for the reclamation of land flooded by tides and for its protection against such flooding led to the passing of this Act. It empowers the Province to enter into and carry out agreements with the Dominion and with private persons or corporations for the construction and maintenance, at their joint expense, of dykes and other protective works. It, also, provides a relatively simple and inexpensive procedure for the incorporation of owners of land on the sea coast as Marsh Bodies, with authority to build dykes and similar works; to assess the cost of the work on and to collect it from the owners of land benefited by it; to expropriate where necessary and to do such other things as may be necessary to carry out their purposes. The Marsh Body is somewhat similar in its organization to a local or municipal government, but its affairs are conducted by an Executive Committee of the owners rather than by a Municipal Council. General supervision over

joint works is vested in a Marshland Reclamation Commission made up of persons appointed by the Government of Canada and of the Province.

Margarine, C.3.—Restrictions upon the manufacture, sale and use of margarine are contained in this Act. Among other things, it requires the keeper of a public eating place where margarine is served to give notice on his menu that margarine is served or, if a menu is not used, to post a sign to the same effect; it prohibits the mixing of margarine with butter for purposes of sale or for use in public eating places; it requires manufacturers of margarine to be licensed; it forbids the manufacture, sale or serving in a public eating place of margarine containing preservatives forbidden by the Regulations or of a quality or colour that does not conform to standards prescribed by Regulation; it requires packages in which margarine is sold or offered for sale to be marked with the word "margarine," and a list of the ingredients and percentages of the same and the name and address of the manufacturer to be shown, and empowers the Governor in Council to make Regulations respecting licences, standards of quality and colour, preservatives and other matters deemed advisable for carrying out the intent and purpose of the legislation. Provision is also made respecting Inspectors, their powers and duties.

Maintenance Orders, C.4.—The short title of this Act is "The Maintenance Orders (Facilities for Enforcement) Act, 1949." It is similar to the English Act of 1920 and those of other Canadian provinces providing for the reciprocal enforcement of orders for the maintenance of wives or other dependents. Reciprocity is effected by Order of the Governor in Council, which may be made with respect to other jurisdictions having similar legislation.

Steam Boilers, C.5.—This Act consolidates earlier acts respecting the operation and inspection of steam boilers and for the first time makes the law and the Regulations respecting them applicable to unfired pressure vessels used for containing gas, air or liquid at pressures in excess of 15 lb. per square inch. The main purpose of the legislation is to ensure that boilers and pressure vessels are so installed, operated and serviced that injury to life and property will be avoided.

Blind, C.6.—By this Act the use of white canes in public places is restricted to blind persons. The prohibition applies only to residents of the Province.

Corporation Income-tax, C.7.—A tax of 5 per cent. on the taxable income of a corporation attributable to its business in the Province is imposed by this Act. The provisions respecting computation of income, allowable deductions, computation of taxable income, computation of tax, returns, assessments, payments, exemptions, and so on, are practically identical with the provisions of the Income-tax legislation of Canada, and by agreement between the Government of the Province and the Government of Canada the actual collection of the tax is carried out by Dominion officials.

Teachers' Pensions, C.8.—This legislation is in substitution for an Act of 1928 on the same subject. It provides for pensions to teachers retiring after 35 years' service and reaching the age of 60 if males or 55 if females. The amount of the pension is in proportion to the years of service with a maximum of 70 per cent. of the average salary and a maximum of $3,000.00 per year regardless of the salary. Provision is made also for pension in the case of retirement because of disability after 15 years of service and for pensions to dependents in the event of death after 15 years of service. The fund from which pensions are payable is made up of contributions by teachers of 6 per cent. of salary in the case of a male teacher, and 5 per cent. of salary in the case of a female teacher, of a Provincial contribution equal to the amount contributed by the teacher, and of an annual Provincial grant of an amount calculated to place the fund on an actuarily sound basis. The fund is administered by a Commission made up of persons appointed by the Province and persons appointed by the Teachers' Union.

Municipal Loans, C.9.—This Act is largely a re-enactment and an enlargement of Chapter 4 of the Acts of 1948 providing for a Municipal Loan Fund. It fixes the amount of the fund at a total of $5,500,000.00 and empowers the Governor in Council, in addition to making loans to municipalities, to make grants to them for the construction of high schools in cities and towns. By Chapter 10, a School Building Fund of $1,000,000.00 is set up for the purpose of making loans to rural sections for constructing, altering or equipping schools and for providing transportation for pupils.

Motor Vehicles, C.37.—A number of minor amendments relating to traffic and traffic control are contained in this Act, but the principal legislation that might be of general interest is the portion of the Act designed to assure persons suffering injury or damage in automobile accidents a reasonable opportunity of collecting from the responsible parties.

The driver of any motor vehicle involved in an accident causing death or personal injury, or damage to property in excess of $50.00, is required to report the accident to the police and, through them, to the Registrar of Motor Vehicles. If, at the time of an accident of this sort, and regardless of the fault or lack of fault of the driver, the owner of the car or the driver is not insured under a policy of automobile insurance for an amount of $5,000.00 in case of injury to or the death of one person and $10,000.00 in case of injury to or the death of more than one person, and $1,000.00 for damage to property, the driver's permit and the licence of the car are immediately suspended. If the owner or driver can show that at the time of the accident a car was stolen or if the only injury or damage resulting from the accident is to the owner or driver of the car, the permit and licence are not suspended, or, if suspended, are reinstated. Otherwise neither the licence nor the permit is restored until the former holder files Proof of Financial Responsibility in the form of an insurance policy in the amounts mentioned above, a bond satisfactory to the Registrar, or money or securities for money, and gives security in the amount mentioned above for the payment of all claims arising out of the accident, or establishes that all claims have been paid. When Proof of Financial Responsibility is given the motor vehicle office issues a card which may be produced by the holder in the event of another accident and which will avoid suspension as a result of that accident. An owner or driver who has insurance prior to the accident has, as evidence of that insurance, a card in the form prescribed under the Act issued by the insurance company and his production of that card to a police officer investigating the accident relieves against suspension of his licence.

Complementing the provisions respecting suspension of permits and licences is a section providing for the creation of an Unsatisfied Judgment Fund. This Fund in the first instance is made up of moneys collected from persons to whom driver's licences are issued by way of an additional levy of 50c. When the fund exceeds the amount of $150,000.00, this levy of 50c. is suspended and is not reimposed until the fund drops below $100,000.00. Payments out of the fund are made to persons who, after recovery of judgments for damages arising out of motor vehicle accidents, are unable by the issue of execution, the examination of the judgment debtor, and a resort to all other means of collecting, to realize on their judgments. The maximum amount that may be paid out of the fund on any judgment is $1,000.00 where the judgment is for damage to property, $5,000.00 where the judgment is for personal injury to one person or $10,000.00 where the judgment is for personal injury to more than one person. Before payment may be made to a judgment creditor, he is required to assign his judgment to the Provincial Treasurer.

Gasoline, C.38.—The Gasoline Licensing Act requires each vendor of gasoline to have a licence from the Board of Commissioners of Public Utilities. That Board is empowered to issue a licence only where it feels that in the circumstances of the application public convenience and necessity require that a licence be issued. The amendment provides that where the applicant for a licence is the

operator of a garage or a dealer in motor vehicles a presumption arises that public convenience and necessity require the issue of a licence to him.

Children, C.63.—By this act it is provided that no child under the age of 12 years, resident or born in Nova Scotia, may be taken out of the Province to be adopted or brought up outside the Province, unless the person taking him has a certificate of the Director of Child Welfare that he has investigated the home to which the child is being taken and is satisfied with its suitability. The prohibition does not apply where the child is being taken to live with natural or adopted parents or where the child is the legitimate or adopted child of the person taking him.

Trade Unions, C.66.—The definition of a trade union is changed to provide that the Act applies only to Unions having written Constitutions, Rules or By-laws setting forth their objects and purposes and defining the conditions of membership. The principal Act formerly required that a union could not be certified as a bargaining agent unless a majority of all the employees in the unit that the union sought to represent had selected that union as their bargaining agent. Under the amendment contained in this Act it is necessary only that 60 per cent. of the employees in the unit voted on the choice of the union and that a majority of those who voted favoured the union seeking to be certified.

5. ONTARIO.

[*Contributed by* K. G. Morden, Esq., K.C.]

Acts passed, 144; Public, 114; Private, 30.

Alcoholism.—The Alcoholism Research Foundation is established (by c. 4) to conduct a programme for research in alcoholism and to establish and operate a hospital for experimentation in methods of treating alcoholics. The Foundation has power to acquire land, buildings, equipment, etc. for its purposes and its funds shall consist of moneys received from any source including moneys appropriated for its use by the Legislature.

Change of Name.—The Change of Name Act required the consent of the parent or husband before the name of an infant child or wife could be changed. In cases where the spouses were separated, the husband would often refuse his consent. This amendment (c. 9) enables the Judge hearing the application to dispense with such consent where the parent or husband does not contribute to the support of the child or wife, or cannot be found or is incapable of giving such consent.

Charitable Gifts.—In the United States during the past few years, many charitable trusts have been established by wealthy men which consist of the assets controlling large commercial and industrial businesses. The trustees are usually members of the donor's family and his business associates who thereby can continue in the active management of the business with certain tax advantages. The purpose of c. 10 is to prevent commercial undertakings being controlled by such trustees. It provides that wherever any interest in any business that is carried on for gain or profit is given to or vested in any person in any capacity for any religious, charitable, educational or public purpose, such person shall dispose of such portion thereof that represents more than 10 per centum interest in such business within seven years after such interest is given or arises and in cases of interests already vested, within seven years after the Act comes into force. The seven-year period may be extended by the Ontario Supreme Court. The person so disposing of the interest in the business may himself acquire such interest for other than charitable purposes subject to the approval of the Court as to the consideration and terms of the sale.

Courts.—The increase in judicial business in Ontario is reflected in amendments to the County Courts Act (c. 19), Division Courts Act (c. 29) and the Judicature

Act (c. 46). The jurisdiction of the County Courts is increased in cases of contract from $800 to $1,200 and of tort from $500 to $1,000. The Division Court now has jurisdiction in personal actions up to $200 instead of $120. The number of Court of Appeal Judges is increased from eight to ten and High Court Judges from fourteen to sixteen.

Frustrated Contracts.—The Uniformity Commissioners' draft of a uniform Frustrated Contracts Act, based upon the Law Reform (Frustrated Contracts) Act, 1943, is enacted by c. 36.

Matrimonial Causes.—Because the great majority of divorce actions are undefended, the custody of the infant children, which is by Ontario practice dealt with at the trial of the divorce action, is determined without the Court being apprised of all the facts. This Act (c. 56) places upon the Official Guardian (a public official whose duty heretofore has been confined to infants' property interests) the duty of investigating and reporting to the Court upon all matters relating to the custody, maintenance and education of children, under 16, of marriages sought to be dissolved.

Oleomargarine.—In 1885, the Dominion Parliament prohibited the import, manufacture, sale or possession of oleomargarine and other butter substitutes. This prohibition was lifted for a short period after the First World War. Last year the Supreme Court of Canada decided that the prohibition, except as to importing, was ultra vires of the Dominion Parliament (see (1949) S. C. R. 1) and therefore within the legislative competence of the provinces. The purpose of Oleomargarine Act (c. 66) is apparently to protect the public from confusing oleomargarine with butter. It regulates the colouring of margarine, provides for the licensing of manufacturers and empowers the Lieutenant-Governor in Council to make regulations prescribing standards of quality, etc.

Regulations Consolidation.—C. 89 provides for the appointment of commissioners to consolidate the regulations filed under the Regulations Act, 1944 (see J. C. L. 3rd series XXVIII, p. 68) to the end of 1950, and the publication of the results of their labours under the designation "Consolidated Regulations of Ontario, 1950." This will be the first compilation of Ontario subordinate legislation.

Statutes Consolidation.—This Act (c. 96) provides for the appointment of commissioners to consolidate and revise the public statutes of Ontario, including the 1950 legislation. The consolidation is to be designated "Revised Statutes of Ontario, 1950." The last revision was published in 1937.

At this session acts dealing with the following matters were re-enacted and consolidated with minor amendments: Crown Attorneys (c. 21), Fire Departments (c. 33), Loan and Trust Corporations (c. 52), Police (c. 72), Public Commercial Vehicles (c. 79), Public Vehicles (c. 86) and Territorial Divisions (c. 104).

6. PRINCE EDWARD ISLAND.

[*Contributed by* W. E. Bentley, Esq., K.C.]

Public Acts, 51; Private, 23.

Divorce.—By c. 10 concurrent jurisdiction is declared to be given to the Supreme Court of Judicature in divorce trials in as full a measure as the jurisdiction originally given in 1835 by the Act 5 William IV, c. 10 to the Court which was established by that Act. The Court which was established in 1835, when the powers of the legislature were plenary, was the Court of the Governor in Council; it was then the Court of Appeal from the Supreme Court. By the British North America Act, 1867, the power of legislation upon all matters coming within the subject of marriage and divorce was declared to be within

the exclusive legislative authority of the Parliament of Canada. C. 10 of 1949, however, contains a proviso that no divorce action is to be transferred to, or be tried by, the Supreme Court if such trial is objected to by any party to the proceedings, or by the King's Proctor.

In view of the enactment of the B.N.A. Act and of the proviso in c. 10 requiring consent of, or absence of objection from, all party litigants (at complete variance with the principle *judicium redditur in invitum*), the legislature apparently accepted the doctrine *Communis error facit jus*, with the addition *et jurisdictionem confert*.

Frustrated Contracts.—By c. 15 the provisions of the Model or Uniform Act prepared and recommended by the Uniformity Commissioners in 1948 is adopted.

Expropriation.—By c. 12 provision is made for the expropriation of land required for certain public works and for the payment of compensation. If the amount of compensation is not settled by agreement, a dissatisfied party may appeal to a Judge of the Supreme Court. An exception is made with respect to land required for highways, compensation for which is fixed as provided by c. 35. C. 35 gives to the owner of land which is expropriated for highways a right of appeal only to the Provincial Government whose minister or official had made the offer, no right of appeal to an impartial tribunal being granted.

Industrial Development.—By c. 21 a corporation is formed consisting of five directors, who are Deputy Ministers of Departments of the Provincial Government appointed by the Lieutenant-Governor in Council. The purpose of the corporation is to assist in the development of industry within the Province. At least 90 per cent. of the shares issued are to be held by a Minister on behalf of the Crown as owner in the right of the Province. Working capital is to be provided out of provincial revenues as may from time to time be directed by Order in Council.

Publication of Regulations.—By c. 23 all regulations of the Lieutenant-Governor in Council must be published in the Royal Gazette, unless otherwise provided by the statute under which they are made.

Mothers' Allowances.—Monthly allowances are, by c. 29, authorized to be paid towards the maintenance of children in case of death or disability of a parent or desertion, the maximum allowance to be paid towards the maintenance of the dependent children of any mother not to exceed $50 a month. An Advisory Commission of not less than three persons is to be appointed to make regulations, inquire into the merits of applications, and assist the Minister of the Crown who may be charged with the Act's administration.

Trade Unions.—By c. 48 certain provisions enacted in 1948 prohibiting affiliation with extra-provincial trade union organizations are repealed.

Workmen's Compensation.—C. 51 adopts for the first time in the Province the principle of compulsory compensation to workmen and their dependents in case of injury or death resulting from accidents sustained in the course of employment. The Act does not apply to farm labourers or domestic or menial servants.

7. QUEBEC.

[*Contributed by the* Hon. Mr. Justice Fabre-Surveyer.]

Public Acts, 71; Private, 70; Total, 141.

Provincial-Federal Relations.—C. 3, amending the 1947 George VI, c. 4, as amended by 1948 George VI, c. 4, authorizes the Provincial Government until May, 1951 to conclude with the Federal Government all agreements deemed effective and just, for the purpose of defining and clarifying federal and provincial taxation fields, reducing taxation, and recovering or safeguarding provincial constitutional rights. The Act came into force February 17.

Universities.—Under c. 4, it is deemed expedient to contribute generously to the success of the subscription in favour of McGill University, and, accordingly, the sum of $1,500,000 is subscribed.

Seigniory of Mingan.—C. 8 enables the Cabinet to authorize the Minister of Lands and Forests to acquire by agreement or expropriation the *"Seigneurie de terra firma de Mingan"* having a frontage of approximately one hundred and fifty miles on the coast of the Gulf of St. Lawrence and a depth of approximately six miles, all expropriation proceedings being subject to the Code of Civil Procedure with certain specified derogations as to arbitrators, remuneration, privileges preserved, etc. The Act came into force on the day of its sanction, March 10.

Housing.—Amending 1948 George VI, c. 6 in various ways, c. 9 enacts that the Government is authorized to spend for the improvement of housing conditions a sum of $7,000,000.

Public Health.—In order to promote intergovernmental and municipal collaboration in matters of health, c. 16 amending The Executive Power Act, 1941 Revised Statutes c. 7, permits the Cabinet to authorize the Minister of Health to make with other Governments and Municipal Corporations all agreements for the joint execution of projects to safeguard and improve public health; the Government is also authorized to advance payments out of the consolidated revenue fund on behalf of contributing parties. The Act is retroactive to April 1, 1948, and it came into force February 17.

Courts of Justice.—C. 18 establishes a court of appeal in provincial matters entitled the "Court of Review in Provincial Matters," constituting a court of record and with jurisdiction throughout the province, a chief justice and three other judges being chosen by the Cabinet to preside over this court during good behaviour, from advocates with at least ten years of practice. The Act empowers the chief justice to supervise and direct the functions of the Court of Review, especially in regard to the distribution of cases, the administration of the courts, and the appointment of assistant judges *ad hoc,* etc.; the sittings of the Court of Review are in Montreal and Quebec, and at the chief place of a district if declared by proclamation of the Lieutenant-Governor in Council. The powers of the judges, three of whom form a quorum, include the making of practice rules which come into force on approval of the Cabinet.

Judges of the Sessions.—C. 20 empowers the judges of the sessions to exercise their jurisdiction in penal matters coming under the authority of the Parliament of Canada or of the Legislature of the Province, as well as in criminal matters, in the whole extent of the Province, and gives them in these matters the powers, authority and privileges conferred by law upon all district magistrates under any law of the Parliament of Canada or of any law whatsoever.

Highway Transportation.—Under c. 21, a Transportation Board is instituted for the supervision and control of transportation services, composed of three controllers appointed by the Cabinet and having its head-office in Quebec City. The Act provides for meetings of the Board at any place in the Province required for the transaction of its business, and for decision of the controllers by majority vote. In addition, the Act delineates the powers of the Board concerning investigations, rates and prices, abusive conditions in contracts, etc.; it permits the Board to order reforms tending to improve services and to regulate conditions as to health and security. The decisions of the Board are subject to appeal to the Court of King's Bench, sitting in appeal, on questions of jurisdiction or law, and the Act came into force on proclamation of the Lieutenant-Governor in Council, August 1.

Industrial Schools.—C. 24, amending 1941 Revised Statutes, C. 39, enables the Minister of Social Welfare and of Youth, at the end of terms of confinement of children of 14 or of 16 years as the case may be, to confide them, for a period not over two years, to an institution or social welfare society which takes care

of young people, so as to allow them to complete their training with a view to securing their future.

Succession Duties.—By c. 32, property subject to succession duties includes the deceased's interest in an insurance contract on the life of another person; in valuing the assets, no allowance is made for obligations assumed in marriage contracts not completely fulfilled at least five years before death, nor for duties or taxes payable on dispositions by gratuitous title effected by the deceased. The Act which came into force March 10, is retroactive to February 22.

Drainage of Land.—C. 40 increases the amount which the Provincial Treasurer is authorized to pay out of the consolidated revenue fund for the drainage of land, in order to expand and consolidate the agricultural domain, by the sum of $4,000,000. The Act came into force February 17.

Farm Credit.—C. 42 authorizes a supplementary loan of $5,000,000 to farmers.

Motor Vehicles.—Under c. 46, amending 1941 Revised Statutes, c. 142, various provisions are enacted for the protection of the public on highways. The Act obliges the insurer, owner, coroner, etc., to make a report to the Revenue Branch at Quebec, and it orders, in addition, the suspension of licenses for a period of at least six months, on proof that the chauffeur or operator of the motor vehicle refused or wilfully neglected to stop after an accident, passed another vehicle at a place where on account of some obstacle the visibility is not sufficient, or was driving in a disorderly or senseless manner so as to endanger the public, or in a state of drunkenness or when under the influence of intoxicating liquors or narcotics. Under certain designated conditions the registration certificate of the vehicle is likewise suspended, and penalties are provided for contravention of the Act, which came into force March 10.

Collective Agreements and Minimum Wages.—C. 54 enacts concerning judicial resources under the Collective Agreement Act and the Minimum Wage Act.

Mines.—In order to utilize mineral wealth, c. 56 enables the Cabinet to authorize the establishment of laboratories for research in mineralogy and metallurgy; the functions of the laboratories are to help mining and metallurgical enterprises perfect techniques of extracting and transforming ores, to encourage scientific research and secure the most profitable results, in particular, for small industries, and in general, to pursue any other scientific or technical reseach work which the Minister deems advantageous for progress.

Cities and Towns Act.—C. 60, amending 1941 Revised Statutes, c. 233, in various ways enacts that Canadian citizens of the full age of twenty-one years are qualified to vote, if not legally disqualified or otherwise deprived of the right; formerly, the quality of British subject was needed. The candidate is also required to be a Canadian citizen under the Act.

Bar.—C.63 provides for the appointment of a Provincial committee on discipline, and delineates its powers, etc. The Act came into force March 10.

Insurance.—Amending 1941 Revised Statutes, c. 29, c. 67 permits insurance companies to invest their funds in any securities, debentures or shares whatsoever to the extent of five per cent. of their real assets at book value, and providing that the amount invested in one association or company does not exceed one per cent. of its assets nor one-fifth of the paid up capital of the company or association.

Parishes and Fabriques.—Notwithstanding any incompatible legislative provision, c. 68 confirms the powers of all civilly erected parishes as well as those only canonically erected, in regard to building, and repairing real estate used for parochial purposes and in regard to borrowing moneys to defray the costs; in addition, the Act confirms their powers to acquire real estate for parochial purposes and to hand over to their trustees accrued capital or reserve funds, etc., by resolution.

Masters and Servants.—C. 69 permits the contract of a domestic, servant, journeyman or labourer hired by the week, month or year, but for an indefinite period, to be terminated by notice by either party, of a week if the contract is by the week, of two weeks if a monthly contract; of a month if a yearly contract.

The rights and obligations arising from the lease or hire of personal service are subject to the rules common to contracts. Previously, they were also regulated in some respects in the country parts by a special law, and in the towns and villages by by-laws of municipal councils. The Act also repeals the Masters and Servants Act, 1941 Revised Statutes, c. 328, and the Fisherman's Engagement and Wage Act, 1941 Revised Statutes, c. 329.

Magistrate's Court.—The jurisdiction of the Magistrate's Court is increased by c. 70 to include actions under the amount of $200.

8. SASKATCHEWAN.

[*Contributed by* J. P. Runciman, Esq., K.C., *Legislative Counsel.*]

1949.

Of the 136 Acts passed, 125 were Public and 11 Private.

Legislative Assembly.—In 1947 the sessional indemnity of $2,000 payable to the members of the Assembly was reduced to $1,350 and the remaining $650 was declared to be an allowance for expenses incidental to discharge of duties as member. By the 1949 amendments (No. 2) the sums of $1,350 and $650 were raised to $2,000 and $1,000.

Automobile Accident Insurance.—Further additions to The Automobile Accident Insurance Act, enacted in 1946 and consolidated and revised in 1947, insure the owner of an automobile against direct loss of or damage to the automobile and its equipment caused solely by fire, or by theft or attempt thereat, subject to a deductable amount to be fixed by regulation (No. 11).

Corporation Income-tax.—A revision of the 1947 Act applies to income received in the 1949 and subsequent taxation years (No. 20). The 1947 Act and amendments thereto remain in force and apply to income received in the 1947 and 1948 taxation years.

King's Bench.—New sections inserted in The King's Bench Act set forth at length the jurisdiction of the court with respect to restitution of conjugal rights, judicial separation, alimony, maintenance, etc. (No. 24). Another new provision declares that an *ex parte* interim injunction to restrain any person from doing any act in connection with a labour dispute shall not be for a longer period than four days.

Contributory Negligence.—A new section inserted in The Contributory Negligence Act provides that, unless the judge otherwise directs, the liability for costs of the parties to every action shall be in the same proportion as their respective liability to make good the damage or loss (No. 32).

Wills.—An amending Act (No. 37) inserts the words in italics below in Section 30 of The Wills Act. This now provides that where any person, being a child or other issue *or the brother or sister* of the testator, to whom real or personal property is devised or bequeathed for an estate or interest not determinable at or before the death of that person, dies in the lifetime of the testator, *either before or after the making of the will,* leaving issue, and any of the issue of that person are living at the time of the death of the testator, the devise or bequest shall not lapse, etc.

Relief of Dependents of Testators and Intestates.—Amendments (No. 38) to The Dependents' Relief Act (known in some jurisdictions as The Testators'

Family Maintenance Act) confer upon the Court of King's Bench the same powers to make orders with respect to the estates of intestates as the court has had since 1940 with respect to the estates of testators.

Intestate Succession.—The provisions of The Intestate Succession Act are by No. 36 declared to be subject to any order affecting the estate of an intestate made by the Court of King's Bench under the authority of The Dependents' Relief Act.

Financial Assistance to Students.—The Student Act (No. 62) provides for a fund, to consist initially of $1,000,000, from which the Minister of Education may make awards by way of loan or scholarship, or both, to students ordinarily resident in Saskatchewan for use in the pursuit of their studies in any institution for the training of teachers or nurses, school of agriculture, institution by which degrees are granted or in any other educational institution approved by the Minister. The fund is placed under the administration of three trustees, constituted a body corporate.

Arts.—The Saskatchewan Arts Board, constituted as a body corporate, is directed to endeavour (a) to make available to the people of Saskatchewan opportunities to engage in any one or more of the following activities: drama, the visual arts, music, literature, handicrafts and other arts; (b) to provide leadership in such activities; and (c) to promote the development and maintenance of high standards for such activities in the province; and in the performance of such duties the board is empowered to provide for the training of lecturers and instructors and to grant scholarships or loans from the Arts Board Fund to students ordinarily resident in Saskatchewan for the purpose of assisting them in the pursuit of their studies in drama, the visual arts, music, literature, handicrafts and other arts. The fund consists of moneys appropriated by the Legislature for the purposes of the Act and other moneys received by the board by way of grant, bequest, donation or otherwise (No. 63).

Teachers' Salaries—Negotiation and Conciliation.—Act No. 66 applies to all teachers regularly employed in day classes in schools within school units or districts, to supervisors employed on a full time basis, and to the boards of school units and districts. The right to bargain is conferred upon boards and groups of teachers, and the duty to bargain, when requested, is imposed upon them. If a board or a group of teachers fails to negotiate when requested to do so, or if a board and group of teachers negotiate but fail to reach an agreement, the Minister of Education, upon notice of such failure, may appoint a Board of Conciliation and refer to it the matter in dispute. If the parties have agreed in writing to accept the award of the conciliation board, the award is binding upon them.

Contagious Diseases among Animals.—A new Act (No. 70) provides for the prevention and control of brucellosis and other infectious and contagious diseases among horses, sheep, goats, swine, poultry and animals of the bovine species. Inspectors are authorized to enter into or upon any premises and exercise powers and perform duties conferred or imposed upon them by the regulations. Owners of animals must give free access to inspectors and assist them, and upon discovering that an animal is or appears to be infected with brucellosis must forthwith notify the Provincial Veterinarian. The sale of an animal infected with brucellosis is prohibited, except to an abattoir under the control of the Dominion Department of Agriculture after notice that the animal is so infected. Provision is made for inquiry and scientific investigation with respect to any outbreak of brucellosis or any other disease and for its suppression or limitation.

Conservation and Development of Agricultural Resources.—Another new Act (No. 73) provides for the establishment of conservation and development areas by the Minister of Agriculture and for the administration thereof by elected governing bodies, called area authorities. Where the Minister deems that construction of works in an area is necessary to save, conserve or develop any land or water resource therein, he may direct that construction be commenced by his

department, or in accordance with arrangements between the Governments of Canada and Saskatchewan, or enter into a contract with any person for the construction of works. Each area authority is responsible for maintenance and repair of works within its area, and the costs involved and other expenses of the area authority are raised by assessments upon lands in the area and collection of rates from the owners thereof.

Margarine.—Another new measure places restrictions upon the manufacture and sale of margarine and the colouring of margarine (No. 77). It provides that no person shall manufacture, sell, offer for sale, have in his possession for sale or serve in a public eating-place any margarine which does not comply with the provisions of this Act and the regulations; that no margarine shall have a tint or shade containing more than one and six-tenths degrees of yellow, or yellow and red collectively; and that no person shall manufacture or sell by wholesale margarine without a licence therefor from the Minister of Agriculture. Packages containing margarine must be marked with information as to their contents. Where margarine is served in a public eating-place notices of that fact must be displayed, and the mixing of margarine with butter for sale or for use in any public eating place is prohibited.

Legal Profession.—Provisions inserted in The Legal Profession Act authorize the benchers of the Law Society to create a special fund, by the levy upon members of an annual assessment, for the purpose of reimbursement of persons sustaining pecuniary loss by reason of the misappropriation or conversion by any member of money or other property entrusted to or received by him in his professional capacity (No. 81).

Medical Profession.—Amendments (No. 82) to The Medical Profession Act provide for admission to membership in the Saskatchewan College of Physicians and Surgeons of (*a*) any medical practitioner registered in the medical register kept by the General Council of Medical Education and Registration in England and (*b*) certain medical practitioners registered in the medical register of any incorporated body of medical men in Australia or any state thereof, New Zealand or the Union of South Africa, exercising powers similar to those exercisable by the Saskatchewan College of Physicians and Surgeons.

Hotels.—The Hotel Keepers Act is amended (No. 87) by the addition of a section providing (*a*) that any person who continues to make a disturbance in a hotel after being requested by the hotel keeper or his agent to desist or, having made a disturbance, fails to leave the hotel premises forthwith after being required to do so, is guilty of an offence, and (*b*) that a hotel keeper or agent thereof who, knowing of any disturbance, fails to request the disturber to desist or, having made such request and in case of continued disturbance, fails to require the disturber to leave forthwith, is guilty of an offence. An offender is liable on summary conviction to a fine of $25 and in default of payment to imprisonment for seven days.

Mental Hygiene.—Sections inserted by No. 90 in The Mental Hygiene Act provide for the admission to a mental hospital of alcoholic and drug addicts, upon voluntary written application or upon the order of a district court judge made *ex parte* upon application and supporting affidavit made by a relative of the alleged addict, or, if he has no relative in Saskatchewan, by any of his friends or by his medical attendant. A voluntary patient may be detained for a period not exceeding one year and committal by a judge may be for a period not exceeding two years. An "addict" means a person residing in Saskatchewan who is so given over to the use of alcohol or drugs that he (*a*) is unable to control himself; or (*b*) is incapable of managing his affairs; or (*c*) squanders or mismanages his property; or (*d*) places his family in danger or distress; or (*e*) transacts his business prejudicially to the interests of his family or his creditors; or (*f*) endangers himself or others. Another new section provides for admission, and detention for a period not exceeding thirty days, of any person suffering from the

effects of alcohol or drugs, upon the certificates of two medical practitioners that the person is so suffering to such a degree as to require hospital care. The superintendent of the hospital is authorized to discharge any patient admitted under any of those provisions if in the opinion of the superintendent (*a*) the patient has sufficiently recovered or (*b*) it is in the interest of the patient or the hospital that he be discharged.

Public Health.—A new section inserted by No. 96 in The Public Health Act prohibits the sale, offering for sale or delivery of milk (*a*) in any city; (*b*) in any town having a population of 1,000 or more, and (*c*) in any other urban municipality designated by the Lieutenant-Governor in Council, unless the milk has been pasteurized in a pasteurization plant approved by the Minister of Public Health. The section does not apply to milk brought into a municipality for delivery to a pasteurization plant.

Conditional Sales.—The Conditional Sales Act is amended by No. 111 which inserts a provision authorizing the registration of an assignment of a lien note or conditional sale agreement; a new section provides that, where a lien note or conditional sale agreement, an assignment thereof or a memorandum of satisfaction is executed by a corporation, no affidavit of an attesting witness is required.

Workmen's Compensation.—By an amendment to The Workmen's Compensation (Accident Fund) Act, a workman who receives compensation at a rate less than $1,200 per year, and who has a dependent or dependents, may be granted an increase, provided that the compensation, when increased, does not exceed $1,200 per year. By other amendments the minimum amount of compensation for permanent total disability is $15 per week, for permanent partial disability a corresponding amount in proportion to the impairment of earning capacity, for temporary total disability $15 per week or, where the average earnings are less than $15 per week, the amount of such earnings, and for temporary partial disability a corresponding amount in proportion to the impairment of earning capacity (No. 112).

Gaols.—A section is inserted in The Gaols Act authorizing the Minister of Social Welfare and Rehabilitation to prescribe a treatment programme in which inmates of gaols shall participate (No. 117).

Western Development Museum.—The Western Development Museum Act (No. 120) provides for the appointment of a Western Development Museum Board, and directs the board (a body corporate) to endeavour (*a*) to procure by gift, donation, devise, bequest or loan wherever possible, and by purchase where necessary and desirable, tools, machinery, implements, engines, devices and other goods and chattels of historical value and importance connected with the economic and cultural development of western Canada; (*b*) to collect, arrange, catalogue, recondition, preserve and exhibit to the public, the tools, machinery, implements, engines, devices and other goods and chattels referred to in clause (*a*); (*c*) to stimulate interest in the history of the economic and cultural development of western Canada and (*d*) to co-operate with organizations having similar objects. The Act creates a fund to which are to be credited all moneys appropriated by the Legislature for the purposes of the Act and all other moneys received by the board by way of grant, gift, bequest, donation or otherwise. All expenses are payable from the fund. The board is authorized to acquire real and personal property necessary for its purposes.

Rural Electrification.—The object of The Rural Electrification Act (No. 122) is to speed up the supply of electrical power to farmers and other occupants of lands in rural areas. Provision is made for the establishment of rural power districts and for the supply of electrical power to lands therein by the Saskatchewan Power Corporation (a Crown corporation) by means of distribution systems to be constructed and owned by the corporation. A rural power district will consist of all parcels of land, of an area of one-quarter section or less, any

part of which lies within one half-mile of the lines constituting a rural distribution system. The corporation will bear the cost of material required for construction of a system and of one meter for each customer. The cost of each transformer required for service to a parcel of land and the cost of material for the run-off will fall upon the owner of the land, and the total cost of labour and other work and of the cost of easements will be apportioned over the lands in the district on the basis of an equal amount being allocated to each quarter section. Provision is also made for the construction of lines by the corporation for and at the expense of any co-operative association incorporated under The Co-operative Associations Act and having as its principal object the acquisition of electrical power for distribution to its members by means of systems owned by the association, and for the supply in bulk of electrical power by the corporation to the association.

Consolidations.—The following Acts were consolidated and revised and placed afresh on the statute book, namely: The Highways and Transportation Act (No. 6), The Department of Social Welfare and Rehabilitation Act (No. 10), The Saskatchewan Corporation Income-tax Act (No. 20), The Saskatchewan Insurance Act (No. 40), The Veterinary Services Act (No. 71), The Farm Implement Act (No. 74), The Electrical Inspection and Licensing Act (No. 95), The Hospital Standards Act (No. 98) and The Passenger and Freight Elevator Act (No. 103).

III. AUSTRALIA.

1. COMMONWEALTH OF AUSTRALIA.

[*Contributed by* J. Q. Ewens, Esq., LL.B., *Parliamentary Draftsman.*]

The Parliament of the Commonwealth of Australia passed 87 Acts during 1949. Those of national importance include the Papua and New Guinea Act, the Shipping Act, the Snowy Mountains Hydro-Electric Power Act and the Whaling Industry Act.

Assistance to States.—The States Grants Act (No. 17) provides for the payment of £600,000 and £100,000 respectively to the States of South Australia and Tasmania, which amounts are payable in addition to the amounts payable to each of those States under the States Grants Act 1948. The States Grants Act (No. 2) (No. 68) grants and applies the amount of £11,054,000 for the financial assistance of the States of South Australia, Western Australia and Tasmania. £4,174,000 is payable to the State of South Australia, £5,618,000 to the State of Western Australia and £1,262,000 to the State of Tasmania. The States Grants (Administration of Controls Re-imbursement) Act (No. 49) makes provision for the grant of financial assistance to the States in connection with the administration of prices, rents and land sales controls. The Treasurer is authorized to make advances to the States in respect of the amount actually expended by a State in administering prices, rents and land sales controls during the financial year commenced on July 1, 1949. The States Grants (Coal-mining Industry Long Service Leave) Act (No. 80) makes provision for the grant of financial assistance to the States in respect of the cost of long service leave granted under industrial awards to employees in the coal mining industry. The Act establishes the Coal Mining Industry Long Service Leave Fund into which are to be paid such amounts as are equivalent to the amounts raised as duties of excise on coal. These are imposed under the Coal Excise Act (No. 81 of 1949) and the Excise Tariff (No. 2) 1949 (Act No. 82). The amount of excise is 6d. per ton. The Act provides that payment may be made to a State where an agreement has been made between the Commonwealth and a State for the expenditure incurred by the State in the reimbursement of the amounts paid by the employers in the coal mining industry in respect of long service leave granted. The States Grants (Coal Strike Emergency) Act (No. 43) authorizes the payment of £8,000,000 for

the purpose of financial assistance to the States by reason of the losses and costs incurred by the States as a result of the coal strike. The States Grant (Encouragement of Meat Production) Act (No. 74) makes provision for the grant of financial assistance to the States of Queensland and Western Australia for the purpose of encouraging the development of meat production by the provision of improved roads and other facilities for the movement of livestock. The Works include the construction and improvement of roads, the construction of cattle loading and unloading points and the improvement of watering facilities. The Act appropriates the sum of £2,165,000 for the purpose of payments under the Act.

Coal.—The Coal Excise Act (No. 81) is an Act relating to excise on coal. It provides that a person shall not produce coal except in pursuance of the Act or if he is not licensed under the Act so to do. The Collector of Customs is empowered to grant a licence to produce coal to any applicant for a licence. A producer is not to produce coal at any place other than in a licensed coal mine. A producer is liable to pay to the Collector the excise duties on all coal produced by him. A producer is not to remove coal from a coal mine without payment of excise duty thereon and unless an entry has been made and passed authorizing the removal of the coal. The Coal Industry (Tasmania) Act (No. 84) provides means for securing and maintaining adequate supplies of coal to assist in meeting the need for that commodity throughout Australia and for providing for the regulation and improvement of the coal industry in the State of Tasmania. The Governor-General is empowered to enter into an arrangement with the Governor of the State of Tasmania for the constitution of an authority to be known as the Tasmanian Joint Coal Board. The Board is to consist of the New South Wales Board constituted in pursuance of the Coal Industry Act 1946 and one other member who is to be appointed for a period not exceeding seven years. The Tasmanian Joint Coal Board is empowered to ensure that coal is produced in Tasmania in sufficient quantities and with sufficient regularity to ensure that the coal resources of Tasmania are conserved and developed to the best advantage in the public interest, to ensure that coal produced or imported into Tasmania is distributed and used in the public interest and to promote the welfare of workers engaged in the coal industry in the State. The Prime Minister may, in agreement with the Premier of Tasmania, issue directions to the Board on matters of policy and it is the duty of the Board to observe and carry out any direction so given. The Coal Industry Tribunal constituted in pursuance of the Coal Industry Act 1946 of the Commonwealth and the Coal Industry Act 1946 of the State of New South Wales is to have such jurisdiction and powers in respect of industrial disputes arising in Tasmania as are conferred upon it by the Act passed by the State of Tasmania to give effect to the agreement between the Commonwealth and Tasmania in relation to the coal industry. The Act contemplates the passage of similar legislation by the State of Tasmania to set up the Tasmanian Joint Coal Board and to vest it with appropriate power. The National Emergency (Coal Strike) Act (No. 20) is an Act to prohibit, during the period of national emergency caused by the coal strike in the coal mining industry, the contribution, receipt and use of funds by organizations registered under the Commonwealth Conciliation and Arbitration Act 1904-1948, for the purpose of assisting or encouraging the continuance of the strike. The "strike" is defined as the general strike in the coal mining industry which began on June 27, 1949. A participating organization is not to make any payment for the purpose of assisting the strike and is not to receive a payment or benefit from any person for such purpose. An organization is prohibited from making a payment to a participating organization. The Court is authorised to make an order for the repayment of any money received or paid in contravention of the Act.*

* In July, 1949, the High Court held that this Act is within the power conferred upon the Parliament by section 51 (xxxv) and section 51 (xxxix) of the Constitution to make laws with respect to conciliation and arbitration and matters incidental thereto. *The King* v. *Taylor, ex parte Federated Ironworkers' Association*, 79 C.L.R. 333; 1949 A.L.R. 605.

Customs.—The Customs Act (No. 45) amends the Customs Act 1901-1947 by the insertion of a provision under which a prescribed rebate may be made of duty payable on the importation of leaf tobacco as an allowance in respect of waste in manufacturing operations. The Customs Tariff (No. 76) makes amendments to the Schedule to the Customs Tariff 1933-1948. The items affected include corsets, carpets, fuel injection equipment, cooking stoves, card cases and fancy goods, cinematographs, films, outer coverings of packages and works of art. The duty on wireless valves is reduced. The Customs Tariff (No. 2) (No. 79) further amends the Schedule to the Customs Tariff. The articles affected by the amendments are bifocal and multifocal lenses, edged lenses, spectacles, spectacle frames, magnifying and reading glasses. The Customs Tariff (New Zealand Preference) (No. 78) amends the Schedule to the Customs Tariff (New Zealand Preference) 1933-1948. The amendment relates to the duty imposed on cinematographs, n.e.i. including sound reproducing apparatus.

Defence.—The Defence Act (No. 71) amends the Defence Act 1903-1948. Its principal provisions continue in force the substance of certain regulations in force under the Defence (Transitional Provisions) Act. The Act provides for adjustment of ranks after war service, promotion of officers and the establishment of the Permanent Military Forces into the Active Forces and the Reserve Forces. It also constitutes the Reserve Citizen Military Forces and the Australian Cadet Corps and makes provision relating to the unauthorized use, possession or supply of uniforms and emblems. It continues in force certain of the National Security (Military Forces) Regulations and the National Security (Prisoners of War) Regulations. The Defence Forces Retirement Benefits Act (No. 37) makes several machinery amendments to the Defence Forces Retirement Benefits Act 1948. These relate to the provisions of the Act concerning the commencement and cessation of contributions, gratuity for service after age for retirement, deferred pay, application of Act to serving members, and other provisions. A new provision ensures that where a serving member was a contributor under the Superannuation Act the benefits payable to him shall not be less than the benefits payable under that Act. The Defence (Transitional Provisions) Act (No. 70) continues in force certain Regulations which were originally made under the National Security Act and provides for the discontinuance of other Regulations also made under that Act. It repeals the Women's Employment Act 1942 and makes a minor amendment to the Land Tax Assessment Act 1910-1948. The Naval Defence Act (No. 72) inserts a new provision in the Naval Defence Act 1910-1948 to continue certain appointments, promotions and transfers effected under the National Security (Naval Forces) Regulations which were in force under the National Security Act 1939-1946. It also confers power to make regulations with respect to the fixing of charter rates and establishment charges in respect of ships requisitioned for naval purposes. The Liquid Fuel (Defence Stocks) Act (No. 29) is an Act "to provide, in the interests of defence, for the maintenance of stocks of liquid fuel within Australia." It confers power on the Minister to serve a notice on any person who imports liquid fuel into Australia to maintain stocks of liquid fuel in the interests of defence. Such a person is entitled to compensation for any loss suffered in complying with the notice. The Liquid Fuel (Rationing) Act (No. 51) authorizes the Governor-General to make regulations with respect to the rationing of liquid fuel and the control of the distribution of liquid fuel with a view to the just and orderly sharing of the available liquid fuel. The regulations so made may empower a person or authority to make orders with respect to matters authorized by the Act. The Act is expressed to extend to the States of New South Wales, Queensland, Western Australia and any State adopting the Act. The Act is not to continue in force after August 31, 1950.

Electoral.—The Commonwealth Electoral Act (No. 10) amends the Commonwealth Electoral Act 1918-1948 to enable aboriginal natives of Australia to be enrolled as electors and entitled to vote if such are entitled under the law of

the State to be enrolled as electors or are or have been members of the Defence Force. It also enables a postal vote to be recorded by any elector whose name appears on a roll and allows postal vote certificates and postal ballot papers to be issued to electors upon personal application at the office of a Divisional Returning Officer. The Commonwealth Electoral Act (No. 2) (No. 47) makes further amendments to the Commonwealth Electoral Act. It declares that the provision of the Act which limits the scope of electoral posters shall extend to an election or referendum although the writ has not been issued. Other provisions inserted by the amending Act empower an authorized person to remove electoral posters exhibited in contravention of the Act and confer on a Court jurisdiction to restrain any such apprehended contravention or to direct the removal of electoral posters so exhibited.

Excise.—The Excise Act (No. 46) amends the Excise Act 1901-1947 to provide that stalks, refuse, clippings or waste arising from the manufacture of tobacco in a factory may be removed from the factory for destruction. The Excise Tariff (No. 77) amends the Excise Tariff 1921-1948 by reducing the excise duty on wireless valves. The Excise Tariff (No. 2) (No. 82) further amends the Excise Tariff. It imposes an excise duty of 6d. per ton on coal not being coal the property of a State.

External Affairs.—The Christmas Island Agreement Act (No. 87) authorizes the execution on behalf of the Government of Australia of an agreement with the Government of New Zealand relating to certain rights vested in the Governments jointly in connection with phosphate deposits on Christmas Island. The Genocide Convention Act (No. 27) gives approval to the depositing by Australia with the Secretary-General of the United Nations of an instrument of ratification of the Convention on the Prevention and Punishment of the Crime of Genocide approved by the United Nations on December 9, 1948. The United Nations International Children's Emergency Fund Grant Act (No. 75) grants and applies the sum of £500,000 for the purpose of a grant to the United Nations International Children's Emergency Fund.

Housing.—The Loan (Housing) Act (No. 73) authorizes the raising of moneys not exceeding £17,000,000 to be advanced to the States for the purpose of housing.

Immigration.—The Immigration Act (No. 31) amends the Immigration Act 1901-1948 to enable certificates of exemption to be issued to persons who are prohibited immigrants or immigrants who may be required to pass a dictation test. It also validates certificates of exemption already issued.*

Industrial Arbitration.—The Commonwealth Conciliation and Arbitration Act (No. 28) amends the Commonwealth Conciliation and Arbitration Act 1904-1948 by inserting new provisions relating to disputed elections in industrial organizations. Where a member of an organization claims that there has been an irregularity in connection with an election for an office in the organization he may lodge an application for an inquiry into the matter by the Commonwealth Court of Conciliation and Arbitration. The Court is empowered to inspect and take possession of ballot papers and to hold an inquiry into the conduct of the election and to order that no further steps be taken in the election, that a person who has assumed office shall not act in that office and that a person who holds or has held office in an organization may continue to act in that office. The Court may declare an election void and make an order directing a new election. It has power to make orders for such injunctions as it thinks necessary. The Registrar is authorized to conduct an election for an office in an organization upon a request by an organization or the branch of an organization. A person is guilty of an offence under the Act if he personates another person at an election, destroys, defaces or alters a ballot paper, records more than one vote at an election, or

* This Act was held a valid exercise of the legislative power of the Parliament of the Commonwealth: see *Koon Wing Lau v. Caldwell*, 1950 A.L.R. 97 (December, 1949).

forges or alters a nomination paper or ballot paper. The Commonwealth Conciliation and Arbitration Act (No. 2) (No. 86) is an Act to "declare that the Commonwealth Court of Conciliation and Arbitration is empowered to determine a basic wage for adult females and for purposes related thereto." It amends the Commonwealth Conciliation and Arbitration Act to make it clear that in fixing the minimum rates for women the function of the full Court is to perform in relation to women precisely the same judicial function as it does in the case of men. The Act also confers on the Court power to declare an irreducible minimum rate for adult males.

Lighthouses.—The Lighthouses Act (No. 36) amends the Lighthouses Act 1911-1942 to extend the provisions of the Act to the Territory of Papua and the Territory of New Guinea and to make certain consequential amendments.

National Health.—The National Health Service Act (No. 85) makes minor machinery amendments to the National Health Service Act 1948.

Parliament.—The Representation Act (No. 44) makes a minor amendment to the Representation Act 1948 to provide that the allowance payable under the Parliamentary Allowances Act 1920-1947 to a Senator shall be reckoned from and including the day of his election.

Pharmaceutical Benefits.—The Pharmaceutical Benefits Act (No. 8) amends the Pharmaceutical Benefits Act 1947. The most important amendment is a new section 7A which provides that a medical practitioner shall not write a prescription for the supply to a person of a pharmaceutical benefit in the Commonwealth Pharmaceutical Formulary otherwise than on a prescription form supplied by the Commonwealth. The prescribed penalty for an offence against the section is a fine of £50. The Pharmaceutical Benefits Act (No. 2) (No. 26) substitutes section 7A in the Pharmaceutical Benefits Act. This section is similar to the earlier section but there has been added a new sub-section to the effect that the requirements of the section do not apply where a person requests the medical practitioner not to write the prescription on a prescription form supplied by the Commonwealth.*

Posts and Telegraphs.—The Post and Telegraph Act (No. 35) inserts a new section 81A in the Post and Telegraph Act 1901-1946, which provides that a person shall not use a telegraph line for the purpose of transmitting a programme or other matter broadcast by a broadcasting station. The Post and Telegraph Rates Act (No. 23) increases the rates of postage on commercial papers, printed matter, circulars, catalogues and books, registered articles and publications. It also increases the rates for telegrams and letter telegrams.

Railways.—The Railway Standardization (South Australia) Agreement Act (No. 83) authorizes the execution by or on behalf of the Commonwealth of an agreement between the Commonwealth and the State of South Australia in relation to the Standardization of the gauge of certain railways and approves of the raising of loans for the purpose of meeting the cost of the work.

Repatriation.—The Australian Soldiers' Repatriation Act (No. 38) amends the Australian Soldiers' Repatriation Act 1920-1948 by increasing the fortnightly rate of pension payable to the children of a member of the forces who is in receipt of a service pension as a member permanently unemployable or suffering from pulmonary tuberculosis. The pension is increased by 8s. per fortnight.

Roads.—The Commonwealth Aid Roads and Works Act (No. 67) amends the Commonwealth Aid Roads and Works Act 1947-1948 to provide for payment of an additional £1,000,000 to the States for roads.

* The section inserted by this Act was held by the High Court to impose a form of civil conscription in respect of a medical service and therefore to be beyond the powers of the Parliament under section 51 (xxiiiA) of the Constitution. *British Medical Association v. Commonwealth of Australia.* 79 C.L.R. 201; 1949 A.L.R. 865 (October, 1949).

Science and Industry Research.—The Science and Industry Research Act (No. 13) repeals the Institute of Science and Industry Act 1920 and the Science and Industry Research Act 1926-1945. It constitutes the Commonwealth Scientific and Industrial Research Organization. This body replaces the Commonwealth Council for Scientific and Industrial Research, which was established under the repealed Acts. The powers and functions of the Organization are the initiation and carrying out of scientific researches, the training of scientific research workers, the making of grants in aid of pure scientific research, the testing and standardization of scientific apparatus, the collection and dissemination of information relating to scientific and technical matters and the publication of scientific and technical reports. The governing body of the Organization is the Executive of the Organization, which consists of a Chairman and four other members. The Act also provides for an Advisory Council of the Organization and State Committees.

Seamen's Compensation.—The Seamen's Compensation Act (No. 7) amends the Seamen's Compensation Act 1911-1947. It increases the amount payable to the dependents on the death of a seaman from £800 to £1,000. The additional provision for each dependent child is increased from £25 to £50. In case of incapacity the weekly payment is increased to £4. The Act provides that the amount payable in respect of certain specified injuries such as loss of legs or arms is £1,250. It also enacts that compensation is payable in respect of personal injury which arises out of *or* in the course of employment.

Shipping.—The Shipping Act (No. 6) establishes and constitutes the Australian Shipping Board, which is to consist of five members appointed by the Governor-General. The Board has power to establish, maintain and operate shipping services, to purchase ships, to lease or charter ships, to act as agents for shipowners, and to train persons for employment as officers or seamen in merchant ships. The Board has power to borrow money on overdraft from the Commonwealth Bank of Australia upon the guarantee of the Treasurer. The Minister is authorized to grant licences for the construction of ships and a person is not, except under such licence, to commence or continue the construction of a ship. The master, owner or agent of a ship is not permitted to use a ship in trading between places in the Commonwealth except under a licence granted by the Minister. The Cockatoo and Schnapper Islands Act (No. 30) repeals the Commonwealth Shipping Act 1923 and provides for the control and management of Cockatoo Island and Schnapper Island. Under the Act all right, title and interest of the Australian Commonwealth Shipping Board in and to Cockatoo Island and Schnapper Island is transferred to and vested in the Commonwealth. Power is conferred on the Minister to control and manage the Islands and the works and establishments thereon.

Snowy Mountains.—The Snowy Mountains Hydro-electric Power Act (No. 25) constitutes the Snowy Mountains Hydro-electric Authority which is to consist of a Commissioner. Two Associate Commissioners will give such advice and assistance to the Commissioner as the Commissioner requires and will perform such duties as he directs. The functions of the Authority are to generate electricity by means of hydro-electric works in the Snowy Mountains Area and to supply electricity so generated to the Commonwealth for defence purposes and for the Australian Capital Territory. The Act confers power on the Authority to construct, maintain, operate, manage and control works for that purpose. The Authority may borrow money on overdraft from the Commonwealth Bank of Australia upon the guarantee of the Treasurer. The Act envisages and authorizes works which, when completed, will constitute the largest scheme in Australia, and one of the largest schemes in the world, for the supply of electricity generated by water power and for the supply of water for irrigation purposes.

Social Services.—The Social Services Contribution Act (No. 3) amends the Social Services Contribution Act 1945-1948 by reducing the concessional rate of contribution payable for every £1 of the contributable income. The Social

Services Consolidation Act (No. 16) repeals the Invalid and Old-age Pensions (Reciprocity with New Zealand) Act 1943. It also increases the allowance payable to the wife of an invalid pensioner from 20*s.* to 24*s.* a week for herself and the allowance for her one child under 16 years of age from 5*s.* to 9*s.* per week.

Stevedoring Industry.—The Stevedoring Industry Act (No. 39) repeals the Stevedoring Industry Act 1947-1948 and makes provision for the replacement of the Stevedoring Industry Commission by the Australian Stevedoring Industry Board. The Board is to consist of a Chairman and two other members to be appointed by the Governor-General. The functions of the Board are to regulate and control the performance of stevedoring operations, to develop port facilities used in connection with stevedoring operations, to provide sufficient waterside workers for stevedoring operations, to ensure that the labour of waterside workers is used to the best advantage, to pay attendance money to waterside workers and to establish and administer employment bureaux for waterside workers. The Board is empowered to make orders which have the force of law. The Board may establish and maintain a register of employees and a register of waterside workers. Unregistered persons are not to be employed as waterside workers. The Act confers authority on the Minister to appoint Waterside Employment Committees. The Stevedoring Industry Charge Act (No. 65) amends the Stevedoring Industry Charge Act 1947 by reducing the rate of charge payable by employers of waterside workers from 4½*d.* for every man-hour of employment to 2½*d.* per man-hour of such employment.

Sugar.—The Sugar Agreement Act (No. 52) approves an Agreement made between the Commonwealth of Australia and the State of Queensland.

Taxation.—(i) Income-tax. The Income-tax Act (No. 2) imposes Income-tax at the rates declared in the Schedule to the Act to be levied and paid for the financial year commencing on July 1, 1949. The personal exertion rate of Income-tax in the case of a taxpayer without dependents will commence at an income level of £501 and the minimum tax will be 18.024 pence per £1 increasing uniformly to an income of £1,000. The property rate will be graduated to an income of £10,000. The Act also determines the rates of tax payable by a company. The rate of company tax will commence at 60 pence per £1. The Income-tax Assessment Act (No. 66) amends the Income-tax Assessment Act 1936-1948. It extends the operation of a special depreciation allowance on property acquired after June 30, 1945, to June 30, 1952. It also makes minor amendments to the provisions of the Act relating to concessional rebates for life assurance premiums and stamps or certificates stolen, lost or destroyed.

(ii) Entertainments Tax. The Entertainments Tax Act (No. 4) amends the Entertainments Tax Act 1942-1946. It extends the benefits of lower rates of tax to entertainments which consist solely of games or sports in which human beings are the sole participants and the entertainments are not carried on for profit. It also provides for the repeal of the rates of tax which hitherto applied to payments of less than one shilling for admission to amusement devices in amusement parks. The Entertainments Tax Act (No. 2) (No. 64) further amends the Entertainments Tax Act by reducing all rates of entertainments tax as from October 1, 1949. The Entertainments Tax Assessment Act (No. 5) makes some minor machinery amendments to the Entertainments Tax Assessment Act 1942-1946.

(iii) Sales Tax. The Sales Tax Acts (Nos. 1 to 9) (Nos. 55-63) amend the Sales Tax Acts to effect a reduction in the general rate of sales tax from 10 per cent. to 8⅓ per cent. The new rates operate on and from September 8, 1949. The Sales Tax (Exemptions and Classifications) Act (No. 54) effects certain amendments to the Sales Tax (Exemptions and Classifications) Act 1935-1948. It exempts from sales tax motor vehicles for use in personal transportation by ex-servicemen, uncultivated plants and flowers, vegetable fats, yeast, maps, wireless valves, liquid ammonia, imported stores for aircraft, and certain goods for use by Trustees of Service Canteens Trust Fund, National Safety Councils and Road Safety Councils.

Temple Society Trust Fund.—The Temple Society Trust Fund Act (No. 69) establishes a Trust Fund of certain moneys received by the Commonwealth from the Government of the United Kingdom being moneys representing the proceeds of the realization of assets of the Temple Society formerly of Palestine members of which have immigrated to Australia. It also provides for the administration and application of the Fund.

Territories.—The Australian Capital Territory Representation Act (No. 12) amends the Australian Capital Territory Representation Act, 1948 by inserting a provision to the effect that the member who represents the Australian Capital Territory shall be a British subject. The New Guinea Timber Rights Commission Act (No. 1) provides that the Commissioner appointed by the Governor-General on January 11, 1949, to make inquiry into and report upon matters relating to the administration of the Minister for External Territories is to have all the powers, rights and privileges specified in the Royal Commissions Act, 1902-1933, as appertaining to a Royal Commission. The Northern Territory (Administration) Act (No. 53) amends the Northern Territory (Administration Act), 1910-1947, by inserting some minor provisions relating to the Legislative Council for the Territory. The Northern Territory Representation Act (No.11) amends the Northern Territory Representation Act, 1922-1936, to ensure that the member for the Northern Territory must be a British subject. The Papua and New Guinea Act (No. 9) repeals the present Acts which provide for the administration of Papua and New Guinea. It approves the placing of the Territory of New Guinea under the International Trustee System and for the administrative union of the Territory of Papua and the Territory of New Guinea. The Act constitutes the office of Administrator and an Executive Council to advise and assist him. It also enables Advisory Councils for Native Matters and Native Village Councils to be established. It continues in force the existing laws of Papua and New Guinea and provides for a Legislative Council for the Territory. The Act also establishes the Australian School of Pacific Administration.

United Kingdom Grant.—The United Kingdom Grant Act (No. 50) grants and applies the sum of £10,000,000 as a grant to His Majesty's Government in the United Kingdom.

War Service Homes.—War Service Homes Act (No. 24) amends the War Service Homes Act, 1918-1948. It raises the maximum amount of assistance under the Act to £2,000. It also enables the Director to accept smaller deposits on the sale of a dwelling house.

War-Time Refugees Removal.—The War-time Refugees Removal Act (No. 32) is an Act "to provide for the removal from Australia of certain persons who entered Australia during the period of hostilities" of the recent war. The Minister is empowered to make an order for the deportation of a person to whom the Act applies and such a person is to be deported in accordance with the provisions of the Act.[1]

Whaling.—The Whaling Industry Act (No. 33) provides for the establishment of the Australian Whaling Commission and for the carrying on by the Commission of whaling activities in Australian waters. The Commission is to consist of a Chairman, a Deputy Chairman and one other member. They are to be appointed by the Governor-General. The Commission has power, *inter alia,* to maintain and operate chaser ships and shore bases, to maintain and operate factory ships and shore factories and to sell or otherwise dispose of whales or materials derived from such whales. The exercise of any of its power is subject to the directions (if any) of the Minister.

[1] Several Chinese who were war-time refugees brought actions in the High Court claiming a declaration that this Act was invalid. The High Court held, however, that the Act was a valid exercise of the legislative powers of the Commonwealth Parliament. *Koon Wing Lau v. Caldwell,* 1950, A.L.R. 97 (December, 1949).

Wheat.—The International Wheat Agreement Act (No. 21) repeals the International Wheat Agreement Act, 1948, and gives approval to the International Wheat Agreement signed at Washington on March 23, 1949.

2. NEW SOUTH WALES.

[*Contributed by* J. W. Ferguson, Esq.]

Parliament.—Under the Parliamentary Electorates and Elections (Amendment) Act (No. 23) there are to be ninety-four electoral districts in New South Wales, forty-eight in the Sydney area and forty-six in the country area. The distribution of electoral districts is to be carried out by the Electoral Commissioner; he will hold office until he reaches the age of 65 years. The Act restricts postal voting to persons whose place of living, as appearing on the Electoral Roll for a district, is situated more than 5 miles from each and every polling place which will be open in such district for the purposes of an election. It also provides for seriously ill or infirm electors and those approaching maternity, who cannot attend at any polling place and who are not eligible for a postal vote, to be visited by an electoral visitor in the sub-division for which they are enrolled and to have their votes taken by him. Other miscellaneous amendments are made to the Parliamentary Electorates and Elections Act, including the use of mobile polling booths at polling places in convalescent homes, hospitals and similar institutions, to allow those electors to vote who are precluded by illness, infirmity or approaching maternity from attending polling places to vote. The Act also prohibits, within the period of 70 hours before the close of the poll on polling day, the printing, publishing or distribution of electoral matter and the use of any amplifying or loudspeaking apparatus or public address apparatus for the purpose of conveying orally to the public, or any section of the public, any electoral matter.

The Legislative Assembly Members Superannuation (Amendment) Act (c. 39) makes acceptance of an office of profit under the Crown a bar to pension unless contributions are made to the Superannuation Fund while in that office. To retain the right to a pension similar contributions are required from members elected to the Commonwealth Parliament. The pension from this Fund may not, however, be received at the same time as the Commonwealth Parliamentary Retiring Allowance or similar pension from another State. Pensions to widows are increased from £3 to £4 a week and the title of the principal Act is changed to the "Legislative Assembly Members Superannuation Act."

The Public Service.—By amending section 48 of the principal Act of 1902, the Public Service (Amendment) Act prescribes that the salaries which are to be the maximum salaries of the lower grades and the minimum salaries of the higher grades of the Professional and Clerical Divisions of the Public Service shall be determined by regulations which are made by the Public Service Board with the Approval of the Governor (No. 5).

Emergency Powers.—The Emergency Powers Act (No. 19) has for its object the protection of the community in the event of the interruption or dislocation of the supply or provision of essential services or essential commodities. Power is given to make regulations relating to the maintenance, operation, control and co-ordination of essential services, and the regulation of the production, acquisition, supply, provision and distribution of essential services and essential commodities, where it appears that from any cause the supply or provision of essential services or essential commodities is or is likely to be interrupted or dislocated or become less than is sufficient for the reasonable requirements of the community.

Health and Hospitals.—The Tuberculosis Act (No. 47) authorizes the execution of an agreement between the Commonwealth of Australia and the State of New

South Wales in respect of tuberculosis. It also amends the Public Hospitals Act to ensure that during the period the arrangement is in force, no means test shall be imposed on and no charge shall be made in respect of sufferers from tuberculosis occupying beds in public wards in any hospital which is subject to the arrangement.

Under the T.B. Sailors' and Soldiers' Association of New South Wales Incorporation (Amendment) Act the name of the Association is changed so as to include a reference to the men of the junior service, the Air Force (No. 15). The change is not to affect the continuity of the body corporate, nor its rights and obligations nor any pending legal proceedings to which it is a party.

The Hospital Benefits Agreement (Amendment) Act ratifies an agreement dated June 16, 1949, between State and Commonwealth which modifies the original agreement of 1946 (No. 20). The Mental Institution Benefits Agreement Act (No. 43) confirms another agreement between Commonwealth and State. It amends the Lunacy Act, 1898-1947, and the Inebriates Act, 1912, provides that the State must ensure that no means test is imposed, and that no fees are charged to or in respect of qualified persons in Mental Hospitals and, except with the concurrence of the Commonwealth, that no charge is made to or in respect of qualified persons for services and comforts for which it was not customary to make a charge as at November 1, 1948.

The Farm Colony Type Mental Hospital Construction Act (No. 36) arranges for the Department of Public Works to build a mental hospital of the type named in the title of the Act.

Education.—The Technical Education and New South Wales University of Technology Act (No. 11) sets up a Department of Technical Education under the Minister for Education and a Technical Education Advisory Council to advise him on the provision and conduct of Technical Education in accordance with the needs of the community, industry, commerce and the co-ordination of the functions of the Department of Technical Education with associated educational bodies. The Act also provides methods of control over private persons or bodies teaching vocational subjects for the purpose of maintaining an adequate standard of instruction. A new South Wales University of Technology is established to provide facilities for higher specialized instruction and advanced training in the various branches of technology and science and for application to industry and commerce. The University is also to aid, by research and other suitable means of advancement, development and practical application of science to industry and commerce.

A Public Instruction (Amendment) Act authorizes the rescission of resumptions of land for school purposes (No. 29).

Housing.—A Housing (Amendment) Act (No. 12) simplifies the registration of the rescission of the resumptions of land acquired for the Housing Commission where the land is registered under the Real Property Act. The Act also allows rental rebates, where appropriate, to tenants of Community Housing Centres and enables advances to be made for the erection of homes or the purchase of existing dwellings to persons who hold land under acceptable Crown Land Tenures such as perpetual leases.

Under the Local Government (Regulation of Flats) Act (No. 17) the owner of any building erected before the commencement of the Act may, at any time before 1952, apply to the Council for approval to convert it into a residential flat building. The application may be made even though the building is in a residential district in which the erection or use of buildings for use as residential flat buildings has been prohibited, and even though the minimum distance of the external walls of the building from the side boundaries of the allotment are less than those prescribed by Schedule 7 to the Local Government Act. The Council may approve an application provided that the residential flat building conforms with the Local Government Act, 1919, and Ordinances made thereunder

(other than the requirements of Schedule 7 as to the minimum distance of the external walls from the side boundaries); the building must contain flats, each of which shall have at least two rooms designed for use as bedrooms and one room designed for use as a living-room; and the minimum distance of the external walls from the side boundaries of the allotment must, in the aggregate, be not less than 12 feet and no external wall is to be within 3 feet of the side boundaries. The Act provides for an appeal to the Minister against the refusal of a Council to approve the conversion of a building within a residential district in which the erection or use of a building for the purpose of a residential flat building is prohibited. In the case of a building not within such a residential district, the ordinary appeal to the Land and Valuation Court will lie. Nothing in the Act exempts an applicant from becoming owner by purchase on or after July 21, 1948. Other amendments strengthen the sections of the Act directed against evading rental fixation, confer on landlords an additional ground of eviction against tenants who have sub-let, extend the period within which an owner who has recovered possession of premises may not sell or re-let the same without leave of a court, and in addition, increase the penalties which may be imposed under the Act. Section 99 of the principal Act, limiting the Act's duration to December 31, 1949, is repealed.

Landlord and Tenant.—Some provisions contained in the National Security (War Service Moratorium) Regulations, declared to be invalid by a High Court decision, are reproduced in statutory form by the Landlord and Tenant (War Service) Amendment Act (No. 22). The object is to relieve lessors of property who qualify as protected persons from certain obligations imposed by the general law on landlords who are not protected persons; to impose on lessors of property tenanted by protected persons certain obligations over and above those applicable to landlords of premises tenanted by other persons. Certain rights are also conferred upon protected persons in claiming possession of vacant dwelling houses, and protected persons who are tenants of agricultural lands obtain certain protection against rental increases. Special protection is conferred upon any soldiers' dependents tenanting premises formerly occupied by the soldier by virtue of his employment. In all material respects the Act closely follows the provisions of the Regulations.

Regulations made in October and November, 1948, governing the exercise by Fair Rents Boards of the original rent fixing functions of the Rent Controller, are superseded by the Landlord and Tenant (Amendment) Act (No. 21). It gives power to declare any premises in which licensee conditions of occupation obtain as special premises so as to subject them to the provisions of the Act as if the occupants were lessees. The definition of "holiday premises" is brought back to the limited terms contained in the former National Security (Landlord and Tenant) Regulations, so that the number of premises exempted from the Act's provisions is reduced. For premises not in existence or not let on either August 31, 1939, or March 1, 1945, the rent payable as at March 1, 1949, is made the pegged rent, subject to any prior or subsequent fair rent determination. Future purchasers of dwellings seeking to evict tenants within two years of purchase in order to occupy the premises themselves, will be obliged to give 18 months' preliminary written notice of intention to serve notice to quit. The absolute obligation to provide a tenant with suitable alternative accommodation, as a prerequisite to the obtaining of an eviction order on certain grounds, is made more general.

Administration of Justice.—The general common-law jurisdiction of district courts is increased by the District Courts (Amendment) Act (No. 44) from £900 to £1,000, and they are given an equitable jurisdiction limited in subject matter and amount much like that of county courts in England and Victoria. The Governor in Council will fix the times of district court sittings and provision is made that additional defences, to be notified to the opposing party, may be

prescribed. Judgments between parties in separate district courts may be set off against one other and there is more liberal provision for giving security on appeals to the Supreme Court. A wider rule-making power is conferred on the district court Judges, but all rules must be approved by the Attorney-General. Issues of fact in certain cases arising in suits in the Matrimonial Causes jurisdiction of the Supreme Court are to be remitted for trial automatically and as of course to county district courts. Some anomalies and difficulties in district court procedure are removed or remedied and the procedure in general is simplified.

Fire Precautions.—The borrowing limits of the Board of Fire Commissioners are raised from £250,000 to £500,000 by the Fire Brigades (Amendment) Act (No. 16). It authorizes the Governor to proclaim the maximum rate which may be levied by Councils on the unimproved capital value in order to meet their commitments to the Board. The Act also alters the basis of contribution to the Board of Fire Commissioners from 25 per cent. in the case of both Councils and the Government, and 50 per cent. in the case of insurance companies to 12½ per cent. in respect of the first two and 75 per cent. so far as the insurance companies are concerned. The provision with regard to the proclamation of the maximum rate and alteration of the basis of contributions came into effect on January 1, 1950.

The Bush Fires Act (No. 31) repeals the Careless Use of Fire Act, 1912-1948, and the Bush Fires Act, 1930. Its object is to prevent and suppress bush fires and to control the lighting of certain fires in the open air. Bush Fire Brigades may be formed or organized by Councils and the Minister, and captains, deputy captains, group captains and deputy group captains, may be appointed with defined powers. Parts of the Eastern and Central Divisions of the State may be proclaimed (i) fire regions and (ii) bush fire districts; for the latter fire control officers may be appointed. There is to be an Eastern and Central Divisions Bush Fire Fighting Fund to which insurance companies will contribute one-half, the Colonial Treasurer one-quarter and certain councils in those Divisions one-quarter. All expenditure on bush fire fighting in those Divisions and certain costs of administration will be paid from the Fund. A Bush Fire Committee is constituted and its functions defined.

Conservation.—The Conservation Authority of New South Wales Act (No. 8) specifies the powers and responsibilities of the Authority. They include the promotion, formulation and co-ordination of plans for the conservation and development of water and timber reserves and the conservation of the soil and the co-ordination of works for such purpose; the initiation and co-ordination of investigations and surveys for such purposes and the direction of the order, time and rate of undertaking them; and the direction of the Water Conservation and Irrigation Commission, Forestry Commission and the Soil Conservation Service in certain matters to facilitating the efficient construction of works, the carrying out of schemes and measures for the conservation, development and provision of water supplies and timber reserves and the conservation of the soil. The Conservation Authority will consist of a Chairman appointed by the Governor, the Commissioner of the Water Conservation and Irrigation Commission, the Commissioner of the Soil Conservation Service, the Commissioner for Forests, and the permanent head of the Department of Conservation. The Authority is subject to the control and direction of the Minister. The Water Conservation and Irrigation Commission is reconstituted by substituting the Commission consisting of three members in lieu of a Commission consisting of the Minister, as Chairman, and two other Commissioners. The Commissioner is subjected to the control and direction of the Minister. The appointment of two Assistant Commissioners under the Forestry Act, 1916-1946, is provided and the status of the head of the Soil Conservation Service is altered from "Director" to "Commissioner."

Roads.—The Main Roads (Federal Aid Roads and Works) Amendment Act (No. 13) incorporates in the Main Roads Act a means for applying to main

and developmental roads and other transport works a proportion of the sums paid by the Commonwealth to New South Wales under the Commonwealth Aid Roads and Works Act, 1947-1948. The Main Roads (Finances Adjustment) Act (No. 32) transfers on loan a sum of £500,000 for the County of Cumberland Main Roads Fund to the Country Main Roads Fund under the Main Roads Act, 1924-1949.

Water and Drainage.—An amending Act (No. 10) modifies the Metropolitan Water, Sewerage and Drainage Act, 1924-1948, by removing the restrictions on borrowing by the Metropolitan Water, Sewerage and Drainage Board. These had been an obstacle to expenditure for essential services. The Board may now invest, to the best advantage, monies held as a reserve for loan repayments. It may also serve notices annually on owners of land affected when amending the boundaries of a drainage area, without being required to serve a notice on the owner of every property within the whole area and may levy a uniform rate in all or any number of definite drainage areas. Other amendments of a machinery nature are made.

An agreement between the Commonwealth and the States of New South Wales, Victoria and South Australia, scheduled to the River Murray Waters Act, 1915-1934, is amended by a fresh agreement ratified by the River Murray Waters (Amendment) Act (No. 6). It relates to the completion of the Hume Reservoir, the widening of the inner channel to Lake Victoria and the products of the Upper Murray storage area and to the prevention of soil erosion.

Western Lands.—The Western Lands (Amendment) Act (No. 45) makes further provision for the withdrawal of lands held under lease, the determination of rentals of Western Lands leases and the conversion of those leases into conditional purchase. Some restrictions are imposed on transactions affecting leases and on the leases themselves in the interests of soil preservation.

Survey.—A new Survey Co-ordination Act (No. 27) establishes a central plan office for recording surveys, plans and other relevant information.

Pasture Protection.—Requirements of the branding (other than the ear-marking) of sheep are repealed by the Pastures Protection (Amendment) Act (No. 18), which increases the maximum rate leviable by Pastures Protection Boards. In certain circumstances Boards may be removed from office and replaced temporarily by a paid administrator. Where necessary, an election may be held to reconstitute a Board so removed. Boards and Directors may be liable to penalties for misconduct in discharging their statutory functions, and directors and servants of the Board may be surcharged to make good deficiencies in the Board Funds in circumstances similar to those laid down in the Local Government Act with regard to Councils.

Marketing.—The Co-operation (Amendment) Act (No. 41) authorizes co-operatives to establish, control and operate markets for the sale of fish, with the approval of the Governor. Co-operative Advisory Committees may be established for every kind or class of co-operative activity. No person other than the corporation sole constituted under the Fisheries and Oyster Farms Act, or a trading society to which the Governor has given approval to establish, control or operate markets for the sale of fish, may sell fish in the fish market established in any fish district.

Navigation.—The Navigation (Amendment) Act enables pilotage rates and fees, harbour and light rates and harbour removal dues to be increased or lowered (No. 9). It also allows the circumstances under which they are payable to be prescribed by regulations.

Motoring.—The Motor Traffic (Amendment) Act (No. 14) enacts that, when required by the police, the owner or person having the custody of a motor vehicle shall give information in writing as to the identity of the driver of the vehicle at the time of the commission of a traffic offence. The information is to include the place of abode of the driver. It also provides that any such information in writing shall

be evidence that the person named therein was the driver where he does not appear to defend the prosecution for the offence. The object of the Act is to save police time in locating offenders and in attendance at Courts to give oral evidence of the identity of drivers where traffic offenders fail to appear.

The Motor Vehicles (Taxation) Act (No. 33) replaces the Motor Vehicles (Taxation) Act, 1942. It provides for the tax on vehicles with compression ignition engines to be double that of petrol-driven vehicles and prescribes rates of tax for vehicles registered for a period less than 12 months. It validates reductions granted in regard to vehicles comprising 97½ per cent. British labour and materials and provides that deductions for British cycles are to be at a flat rate. It also validates reductions in taxation on tractors and trailers with pneumatic tyres.

The Motor Vehicles Taxation Management Act (No. 34) replaces the Motor Tax Management Act, 1914, and provides for the assessment and collection of tax payable on vehicles under the Motor Vehicles (Taxation) Act, 1949. The Act also validates concessions in motor vehicles tax that have been granted by various Governments during the past 24 years.

Finally an amending Act (No. 35) increases certain fees payable under the Motor Traffic Act, 1909-1949, and the Transport Act, 1930-1949, and provides that in every case the fee for a quarterly registration is to be 30 per cent. of the fee for an annual registration.

Racing.—The Racing (Amendment) Act (No. 42) amends the Economic Stability and War-time Provision Continuance Act, 1946-1948. It extends its operation until December 31, 1950, and it lifts the prohibition of mid-week horse and pony racing in the area beyond 50 miles and within 75 miles of the General Post Office, Sydney, i.e. as regards Kembla Grange, Gosford and Wyong races, subject to the holders of licences in that area fulfilling certain conditions as to payment of one-sixth of the net profits of each meeting to the New South Wales Trainers' Benevolent Fund. The aerial broadcast of any information relating to any horse or pony race held at a racecourse in this area on a day other than a Saturday or public holiday is prohibited during the period commencing 1 hour before the starting time of the first race and ending upon the running of the last race. The Act also amends the Gaming and Betting Act, 1912-1948, in respect of greyhound racing at Cessnock; the licence fee is reduced from £20 to £10, and the days upon which greyhound racing may be held there are no longer restricted by the Gaming and Betting Act to Wednesdays, Saturdays and public holidays but meetings may take place on any day of the week not being Sunday, Good Friday or Christmas Day, subject to the provisions of the Economic Stability and War-time Provisions Continuance Act. Section 53D is altered to allow certain non-proprietary racing associations to hold more than one class of licence under the Gaming and Betting Act.

Miners' Pensions.—The definitions of "owner" and "mine worker" are extended by the Coal and Oil Shale Mine Workers (Pensions) Amendment Act (No. 26). "Owner" will include certain persons and companies who employ mine workers, but are not the owners of coal or oil shale mines; "mine worker" will include persons even though not employed by the owner of a coal or oil shale mine and even though not employed in or about a coal or shale mine. The rates of pension and certain dependents' allowances under the Act are increased. A pension is provided for injured mine workers where the compensation received is less than the maximum mine worker's pension. The Tribunal may award a pension to a "sick mine worker" under certain conditions where he is under the compulsory retirement age and where the sickness is not due to the employment but is not due to his own fault and is not subject to compensation. Generally the qualifications for a pension are made more stringent. Certain allowances under Section 9 of the Act are provided after the date of grant of the pension and the administrative action already taken in such cases is valid.

The allowance for children is limited to one child only. The payment of a subsidy to certain "dusted" mine workers is provided from a date prior to the Coal and Oil Shale Mine Workers (Pensions) Further Amendment Act of 1947. Child endowment as a deduction against pension is limited and War Service Pension and pension under the Superannuation Act, 1916-1948, are included as deductions from mine workers' pensions. The Tribunal can award a pension to the *de facto* wife of a deceased contributor to the Fund, and the disqualification clause is eased for the widow who receives or has received workers' compensation consequent upon the death of her husband by accident or injury sustained in the industry. The permissible earnings of a widow are liberalized and the earnings of a man and/or wife are restricted. The Tribunal is empowered to cancel or suspend the pensions in certain circumstances and the Governor is enabled to allocate the amount to be placed to Reserves at the close of each financial year. The procedure already adopted by the Tribunal in this regard is validated. The qualifications for a pension by a deserted wife are eased. The Act also provides for mine workers in certain classifications to retire voluntarily or be retired by the employer between the ages of 50 and 65.

Liquid Fuel.—By the Liquid Fuel Act (No. 40) Commonwealth Regulations made under the Commonwealth Liquid Fuel (Rationing) Act, 1949, to control distribution are brought into operation as laws of the State of New South Wales. This provision operated from the day appointed by the Governor and was to end on August 31, 1950, or such earlier date as he might fix.

Stamp Duties.—A Stamp Duties (Amendment) Act provides that, in certain cases, the stamp duty may be impressed, during the printing process, on bills of exchange drawn on demand and printed to the order of a bank for issue to its customers (No. 37).

Price-fixing.—The Prices Regulation (Amendment) Act (No. 24) repeals section 62 of the principal Act which fixed its duration as 12 months from its commencement and no longer. It also eliminates from section 30 (5) words which allowed a particular defence to a person on whose behalf, or at whose place of business goods are sold at a greater price than the maximum price fixed in relation thereto and who is charged with an offence against the Section in respect of such sales.

Hide and Leather Industries.—Here again a section of a principal Act which fixed the duration of the Act at 12 months and no longer, is repealed by an amending Act (No. 30).

Local Legislation.—Other statutes, of a less general scope, deal with the Lakemba Memorial Hall (No. 3), power generating stations at Lake Illawarra and Cowra (No. 2), water storage in the Darling River and the Menindee and other lakes (No. 7), dredging and navigability of the Moruya River (No. 4), and the reconstruction by the Department of Public Works of a bridge over the Cook's River at Canterbury (No. 1).

3. QUEENSLAND.

[*Contributed by* John Seymour, Esq., *Parliamentary Counsel and Draftsman.*]

In all, twenty-four Acts, inclusive of the usual two annual Appropriation Acts, were passed by Parliament during this Session. Hereunder is a summary of the more important Public Acts included in the above number.

Timbers used in Building and Furniture Manufacturing.—Many varieties of Queensland timber suitable for use for building purposes and in the manufacture of joinery, mouldings, flooring and furniture are susceptible to attack by the Lyctus insect (commonly known as the powder-post borer). Susceptible varieties of timber are commonly attacked by this pest during the period of 12 months

after being sawn. The Act specifies in a Schedule by their respective trade names a list of well over one hundred species of timber, all of which are liable to Lyctus attack, and requires a vendor of any such species to sell it under its trade name as set out in that Schedule. Immunity from Lyctus attack can be secured by proper preservative treatment. Power is taken to prescribe what shall be such treatment, and the sale of timber preservative treated against Lyctus is prohibited unless in fact it has been treated as approved under the Act. Building contractors and furniture manufacturers are prohibited from using Lyctus susceptible timbers except in the construction of temporary buildings and articles.

Other provisions ensure against the use for building and manufacturing purposes of unseasoned timber by laying down standards to which timber represented as being seasoned must conform. Generally the standards of the Standards Association of Australia are adopted. Sellers, builders and manufacturers are required to conform to these standards. Civil remedies are given by providing that contracts relating to the sale of timber, or to building operations, or to the manufacture of articles in which timber is used, are deemed to contain implied conditions that all timber involved is free from Lyctus susceptible timber. In the case of seasoned timber, the implied condition of the contract is that the requirements of the Act prohibiting the sale of unseasoned timber as seasoned have been complied with. If timber is sold as preservative treated, the implied condition of the contract is that such treatment has been effected as required by the Act.

Tuberculosis.—By agreement the Commonwealth and Queensland are to participate in a joint Federal-State campaign for the reduction as soon and as far as possible of the incidence of tuberculosis in Queensland. This state has by its own efforts reduced the incidence of this disease today to about one-fifth of what it was in 1900. The Commonwealth-State agreement covers four major factors in the development of the above campaign, namely, legislation, finance, administration and plan of control. As regards legislation, the State has agreed that, to the extent to which the Commonwealth lacks constitutional power, it will pass any necessary laws.

This Act deals with the financial arrangements between the above Governments with respect to their joint scheme. The Commonwealth will meet capital expenditure incurred by the State with its approval on and after July 1, 1948, in carrying out the scheme. Capital expenditure covers the provisions of lands, buildings, plant, furniture and equipment. The excess of maintenance expenditure incurred by the State in excess of that for the agreed upon base year of 1947-1948 will also be met by the Commonwealth. Maintenance expenditure is the annual cost to the State in relation to the diagnosis, treatment and control of tuberculosis. No means test will be imposed and no charge will be made in respect of treatment in a State institution, any part of the maintenance expenditure upon which is paid by the Commonwealth.

Housing.—The Labour Government of Queensland has always regarded ownership of his own home as the foundation of social security for the citizen in the lower and middle income groups. Under existing legislation, a citizen in this class can (a) obtain a loan from the State in order to erect a home on his own land; or (b) buy a home from the State by making a deposit and paying off the balance on easy terms. The maximum amount of the loan has been increased from £1,250 to £1,500 in the case of a wooden dwelling, and from £1,500 to £1,850 in the case of brick or concrete. The further limitation of the loan based on the fair estimated value of the house and its appurtenant land has also been liberalized. In future the loan can be up to 17s. in lieu of the former 16s. in the £1 of that value.

In the case of Workers' Homes (that is, homes upon a perpetual leasehold tenure) purchased from the State, the income qualification of the buyer has been

lifted from £260 to £800 per annum. This is net annual income, that is, the income remaining after deducting all deductions allowable under the Income-tax Acts.

However, appreciating that the giving of liberal assistance does not solve the two main difficulties with which the average citizen seeking to obtain his own home is confronted, further provisions aim—(i) to assist in saving the initial deposit required to obtain a State home; and (ii) to pay for the home in the event of the premature death of the home-owner, particularly in the case of the family bread-winner.

The deposit upon a home can be accumulated over a period upon the instalment plan by payments into the State Housing Commission. To be eligible to participate, an applicant must have a net income after deducting all deductions allowable under the Income-tax Acts of not more than £800 per annum, and neither he nor his spouse must already own a home. Periodical instalments at intervals of not less than a week and of amounts not exceeding the rate of £10 per month can be made, except in the case of seasonal incomes where larger instalments can be paid by arrangement. Family groups can contribute instalments towards a joint deposit. A Crown subsidy will be paid upon these deposits. It will be payable when the money is applied towards acquiring the home from or through the State. The subsidy will be equivalent to interest at the rate of 4 per cent. per annum upon the minimum monthly balance, not exceeding £500, of the instalments paid towards the deposit over a period of not longer than seven years, plus current Commonwealth Savings Bank interest upon moneys in excess of £500 but not over £1,000 in the amount of the deposit. If more than £1,000 is deposited, subsidy will not be paid on the amount over the £1,000. A depositor can withdraw, and in that case is entitled to interest at the Commonwealth Savings Bank rate on any amount up to £1,000. Interest will not be paid upon any sum in excess of £1,000 deposited and withdrawn. Free insurance is provided to cover the loss of the family bread-winner before the home is paid for. To be eligible for this insurance, an applicant must be under 40 years of age, must be in receipt, after the deduction of all allowable Income-tax deductions, of a net income of not more than £800 per annum, and must pass a medical test. The benefit under the insurance policy will be the balance of the principal money and interest payable on and after his death in respect of the loan upon or purchase price of the home. Premiums upon these policies will be paid by the Treasury to the State Insurance Office which is charged with issuing the policies.

Irrigation and Water Supply.—The law on this subject was amended to make special provision for the settlement upon irrigation farms of discharged service personnel. The action of the Government in establishing a special irrigation area in North Queensland for the settlement of returned servicemen in tobacco growing, was validated. Rapid post-war development has focussed attention upon the immense possibilities for irrigation in Queensland. The maximum area or irrigable land which any one person may hold has been increased from 60 to 150 acres, and the law relating to the resumption of lands required for irrigation works simplified.

Land Laws.—These laws make provision for the alienation of certain Crown lands under leasehold tenure subject to a right of resumption. In the case of leasehold grazing properties alienated since 1910 subject to a right in the Crown to resume, further provision in the Land Acts limited the right of the holder to compensation in respect of such resumption. The limitation limits the compensation for the land, exclusive of improvements, to a sum equivalent to 6d. per head of sheep, or 4s. per head of cattle, based on the carrying capacity of the resumed land multiplied by the number of years (not exceeding ten) in the remainder of the term of the lease. A careful review having convinced the Government that this limitation was unjust, it has been removed.

Another feature of these resumptions which was unfair to the Crown has also been removed. This was the provision whereunder, in cases of resumptions by the Crown for other than a public purpose, subject to payment of compensation, the resumption did not become effective until 12 months after the compensation was finally determined. Henceforth the Crown can take over the land any time after 30 days from service of notice of resumption. The holding under grazing selection tenure of one selection exceeding 30,000 acres in area, and subject to a first period rental of more than £400 per annum, is now authorized. This meets cases, particularly in remote parts of the State, where it is necessary to open as one grazing selection an area exceeding 30,000 acres in order to give the prospective selector a living area. Further provision is made for the settlement in the sugar industry of discharged servicemen, by giving them a preferential right in respect of 50 per cent. of the new assignments of lands to sugar mills, available by reason of the increased market both in Australia and overseas for Queensland-produced sugar. This preference is additional to the right to assignments totalling 3 per cent. of the then existing sugar mill peaks given to eligible ex-servicemen in 1946, which right is also enlarged by basing the 3 per cent. on the new increased mill peaks.

Workers' Compensation.—The maximum annual income which a worker within the meaning of the Workers' Compensation Acts may derive, and still remain entitled to all benefits provided for in the Act, has been increased from £750 to £1,000 per annum. Benefits payable under the Act have been substantially increased. In the case of a worker's death through injury, the total compensation payable to his dependents is increased from £1,000 to £1,250, plus £50 for each child under 16 years of age. Weekly compensation paid prior to death is set off against the above total compensation, but so that in no case shall the compensation consequent on death be less than £300. The above benefits relate to total dependency. In cases of partial dependency, compensation consequent on death is increased to maximum £1,250, minimum £250. Medical expenses in the case of a worker without dependents suffering death through injury are increased from £50 to £100. The compensation payable to parents of a worker who is a minor and who suffers death through injury is increased from £100 to £200. Before the passing of the latest amendment, maximum weekly compensation was £3 11s. per week, and the percentage basis of average weekly earnings for the assessment of compensation actually payable was 66⅔ per cent. The basis of assessment is increased from 66⅔ per cent. to 75 per cent. of the average weekly earnings, and the maximum weekly compensation from £3 11s. to £4 per week. Where average weekly earnings are less than £4 per week, the compensation is fixed at not more than £3 per week. The absolute minimum weekly compensation payable to a worker during total incapacity through injury is increased from £1 to £1 10s. per week. Compensation in respect of dependents of an injured worker is also increased. In the case of a wife, the increase is from £1 to £1 10s. per week. The aggregate total weekly compensation which an injured worker can draw for himself and his dependents is increased from £5 11s. to £7 per week. The maximum total liability of the Insurance Commissioner in respect of weekly compensation for an injured worker and his dependents is increased from £1,250 to £1,500. Fixed sum compensation payable in respect of the injuries specified in a Table of Injuries (such as loss of both eyes, etc.) in the Act is also increased. The new maximum under this Table is £1,500. Medical and hospital expenses payable in respect of an injured worker are each increased from £25 to £50. Miners' phthisis benefits are also increased. In fatal cases the increase in the maximum compensation payable is from £1,000 to £1,250, and in the minimum from £200 to £300. The maximum weekly compensation payable to a sufferer with a dependent wife and children is increased from £4 2s. 6d. to £4 10s. per week. The funeral benefit is increased from £20 to £50.

Deserted Wives and Children.—Until 1949, the obligation of a husband to support his wife and of a father to support his children, whether legitimate or

illegitimate, was imposed by Statutes which, having been enacted by New South Wales prior to the separation of Queensland, antedated the establishment of the Colony of Queensland in 1859.

The most important new features of "The Maintenance Act of 1949" are—Discretionary power is vested in the court to make a maintenance order in respect of children removed by the mother from the matrimonial home when she has left her husband under circumstances justifying her withdrawal, although the husband is willing to receive and maintain the children in his home or elsewhere. Formerly a wife could not recover maintenance in respect of children living with her apart from the husband, if he established his willingness to maintain the children in his own home or elsewhere. This could be, and sometimes was, unjust, as a mother without means of her own would often endure persecution and cruelty from the husband in order to retain their children. Authority to the court to make a maintenance order retrospective to the date when the proceedings were instituted. This meets cases of delay caused by circumstances such as illness of a party, and the difficulty of serving process on deserting husbands and fathers who have absconded. Power to order maintenance to the date of the death of a deserted wife or child who dies after the institution but before the completion of the proceedings. Discretionary power to the court to refuse to enforce in full arrears under a maintenance order where there has been undue delay in seeking such enforcement, or where the default has been occasioned by circumstances, such as ill-health or unemployment, beyond the control of the defendant. Provision for interim maintenance orders with a currency not longer than three months, where circumstances prevent a reasonably speedy final determination. Recovery of arrears of maintenance as a debt from the estate of a deceased husband or father. A clear line of demarcation is fixed between the respective jurisdictions of the Supreme Court and Courts of Petty Sessions, by providing that a divorce decree or maintenance order of the Superior Court terminates, as from the date when it takes absolute effect, a maintenance order of the lower Court. Formerly no express line of demarcation in this regard was stated in Queensland law. A definite court procedure for the rescission or variation of maintenance orders is laid down, with opportunity to all interested parties to be heard before rescission or variation is ordered by the Court. Courts are vested with discretionary power to hear maintenance proceedings in respect of wives and legitimate children in camera. There is provision for matrimonial conciliation in marital maintenance cases.

Social Service Benefits for the Mentally Sick.—Statutory authority has been given for the making of an agreement between the Commonwealth and Queensland whereunder the Commonwealth will contribute towards the maintenance in institutions of this State's mentally sick. Payments by the Commonwealth will be based on the aggregate payments received by the State in respect of the maintenance in institutions of mentally sick persons during the financial year 1947-1948. Patients and their relatives are not to be so charged by the State during their currency of the agreement, which is to operate for five years from November 1, 1949, and thereafter until determined by either the Commonwealth or State.

Burdekin River Development.—The Burdekin River and its tributaries comprise one of Queensland's northern tropical coastal river systems. A suggestion by the late Dr. Bradfield that this system be dammed and its waters diverted over the coastal mountain ranges to inland areas of the State focussed attention on the possibilities of applying these waters to irrigating country east of the range, that is, the coastal strip between the mountains and the sea. An investigation commenced in 1945 has established the possibility and feasibility of using the water of the Burdekin River and its tributaries to provide irrigation for the intensive development of the great coastal area lying between Townsville on the North and Bowen on the South. The scheme has immense possibilities. A dam 138 feet high at the Burdekin Falls would impound over 4,000,000 acre feet of

water—twice the amount contained in the Hume Dam, and a capacity greater than the Snowy River scheme when completed. Relative to the Snowy River scheme, one disadvantage is that the intake of water by the Burdekin River dam will be seasonal. This factor, added to the possibility of a prolonged drought, means that the use of water from the Burdekin dam must be planned on the assumption that it will be refilled only once every two years. Nevertheless this dam will provide sufficient water for the irrigation of 250,000 acres of land, and for developing 42,000 kilowatts of electric power even should rain fail the catchment area of its river system for two years. Lands capable of being irrigated under the scheme are suitable for cotton, tobacco, sugar, dairying, pig-raising, fattening beef cattle, and tropical fruit growing.

"The Burdekin River Development Act of 1949" constitutes an authority called the Burdekin River Authority to carry out the scheme. This authority is, in the first instance, a State body, but the Commonwealth has been approached to render financial assistance and if the Commonwealth does so, provision in the legislation enables it to have representation on the authority. Subject to Commonwealth membership of the authority not exceeding two, it will be entitled to representation proportionate to the financial assistance it agrees to give to the undertaking. The functions of the Burdekin River Authority are to conserve water, mitigate floods, and irrigate lands by means of appropriate works in the Burdekin River area. It is to supply water for irrigation, stock routes, local authority and other purposes, and is to generate and supply electricity by means of hydro-electric works.

4. TASMANIA.

[*Contributed by* R. A. Lewis, Esq., *Chief Parliamentary Draftsman.*]

Sixty-nine Acts in all were passed during the year 1949, of which 15 may be said to be mainly financial, 12 were local or personal, 8 effected purely formal amendments, and 14 were largely administrative and of little general interest.

Of the Acts reviewed hereunder, one, the Tuberculosis Act 1949, represents a somewhat startling, if not revolutionary, approach to the problem of eradicating disease, and marks a departure, so far as the legislation of Tasmania is concerned, from the long-held belief in the inviolability of the human person. As will be seen from the summary of the Act, it, in effect, makes provision for the compulsory medical examination of the whole community and for the compulsory detention of sufferers. The bringing down of the Bill for this Act led to some public controversy, which had its effect in the modification of the Bill by the Legislative Council, which inserted a provision expressly prohibiting any kind of medical or surgical treatment except with the express consent of the patient, and as the result of that provision the Act provides for compulsory examination and segregation but not for any form of compulsory treatment. The continuance of the housing emergency is illustrated by the passing of the Landlord and Tenant Act which continues, in the form of a State Act, substantially the same controls as were imposed during the war years by regulations made under the National Security Act of the Commonwealth.

The tendency of the State Government to take a more intimate and practical part in the encouragement of the arts is illustrated by the passing of the National Theatre and Fine Arts Society Act, which, *inter alia*, appropriated £12,000 to assist the Society to purchase and preserve the historic Theatre Royal, which was the venue of the Tasmanian appearances of Sir Laurence and Lady Olivier during their recent tour of this country.

An interesting measure, which serves to remind us of more spacious days, is the Sesquicentenary Act, designed to set up an expert committee to plan appropriate functions to celebrate the 150th anniversary of the foundation of British settlement in this State.

New Town Mothercraft Home Agreement.—No. 5 validates an agreement made between the National Executors and Trustees Company of Tasmania, the Minister for Health, and the officers of the Child Welfare Association of Hobart with respect to the transfer to the Government of the Mothercraft Home at New Town (a suburb of Hobart) and makes provision for the future management of the Home and for the vesting of gifts made to or for the benefit of the Home.

North Esk Regional Water Supply.—No. 9 authorizes and provides for the construction management and operation of works for a regional water supply for parts of the municipalities of Evandale, George Town, Lillydale, St. Leonards, and Westbury. The Minister is empowered to construct the necessary works. Water is to be supplied to the councils of the relevant municipalities in bulk and the councils are to be responsible for reticulation and for the distribution of water within the districts concerned. The scheme is to be administered by the Director of Public Works, who is, for the purposes of this Act, constituted as a corporation sole under the style of "The Administrator of the North Esk Regional Water Supply." The Act contains complicated provisions as to the terms and conditions upon which water is to be supplied to the several councils and as to the basis of payment therefor. The Act is, in most essential respects, very similar to the Southern Regional Water Supply Act 1946 (*vide* J.C.L., Vol. XXX, p. 77).

Mental Institution Benefits (Agreement).—No. 10 authorizes the Premier, on behalf of the State, to execute an agreement with the Commonwealth (in accordance with the heads of agreement specified in the schedule) with respect to the payment to the State of financial assistance in respect of the free treatment of patients in mental institutions, and is complementary to the mental institution benefits scheme which has recently been inaugurated as part of the social services plans of the Commonwealth Government.

Prices.—No. 11 extends the operation of the Principal Act of 1948 until December 31, 1949. By a later Act (No. 61) this was further extended until June 30, 1950.

Government Printing Office.—No. 14 makes provision for the conduct of the Government printery as a business undertaking and contains detailed provisions as to the accounts to be kept by the Government Printer and as to the application of the funds of the undertaking. For the purposes of the Act, the Government Printer is constituted as a corporation sole.

National Theatre and Fine Arts Society.—No. 15 represents an important step forward in the encouragement of the dramatic and other arts by the Government. The Act, in effect, establishes a National Theatre, although the Government's sole financial aid consists of the granting of £12,000 to the Society to enable it to purchase the Theatre Royal, in Hobart. The Act provides for the granting to the persons named in the schedule of a Charter creating them and their successors a body corporate under the name of "the National Theatre and Fine Arts Society of Tasmania" and enumerates the provisions to be included in the Charter. Those provisions set forth the objects of the Society and provide for the constitution and organization thereof.

Tuberculosis.—No. 20 represents a revolutionary development in the legislation of the State. This Act empowers the Minister, by public notification, to call up whole classes of persons for radiological examination of their lungs (s. 5). In addition, it is provided that if a private medical practitioner has reason to believe that any person professionally attended by him is or may be suffering from tuberculosis, or as the result of a post-mortem examination or otherwise becomes aware that any deceased person was so suffering at the time of death, he shall forthwith notify the Director of Tuberculosis (s. 3). Upon receipt of such a notification the Director is required to do all things necessary to ascertain whether the person to whom the notification relates or any of his contacts is or may have been suffering from tuberculosis. For the purpose of carrying out his duties the Director is authorized to give such notices and directions and make such requirements as he considers necessary and any failure to comply with any

such notice, direction, or requirement is an offence against the Act. At the same time, the Director is expressly required to have regard to the opinion of the medical adviser of any person concerned. Disputes between the Director and any private medical practitioner as to whether a person is or is not suffering from tuberculosis or is or is not in an infectious condition are to be referred for settlement to one of the medical boards established under the Act (s. 4). If the Director has reason to believe that a person is suffering from tuberculosis and has refused to undergo examination he may direct that person to undergo such examination as the Director thinks necessary (s. 6). If the Director is satisfied that a person is suffering from tuberculosis and is in an infectious condition the Director may apply to a medical board for an order requiring that person to be detained in an institution (s. 8). The board, before making an order of detention, must be satisfied that:

(a) the person is suffering from the disease and is in an infectious condition;

(b) in the person's interests he should be properly attended and treated;

(c) the person's circumstances are such that proper precautions to prevent the spread of infection are not being or cannot be taken;

(d) there is a substantial risk of infection of other persons; and

(e) accommodation is available in a suitable institution.

Such orders can operate only for 6 months at a time and only for 3 years in the aggregate and provision is made for the extension (within the above limits) or revocation of such orders and for their enforcement by warrant. The Act, further, confers a right of appeal to a judge in respect of orders of detention (s. 10). While compulsory segregation of sufferers is provided for, compulsory treatment is expressly prohibited (s. 14). Provision is also made (s. 15) for the making of regulations covering a wide range of subjects such as standards to be observed in bacteriological or clinical examinations; the duties of local authorities; the taking of precautions to prevent the spread of infection; the disinfection or destruction of infected bedding and other articles; and the reimbursement of the travelling expenses of persons required to travel for the purpose of undergoing examination. The Act (as amended by a later Act) will expire on June 30, 1958.

Landlord and Tenant.—No. 21 makes provision for the control of rents and for regulating and restricting the eviction of tenants and replaces the temporary Act passed in 1948 when responsibility for these matters (which were a form of control instituted during the late war) was relinquished by the Commonwealth.

The Act makes detailed provision for regulating the determination by the Rent Controller of the fair rents of premises to which the Act applies and prohibits the charging, etc., of more than the rents so determined.

Appeals from determinations of the Rent Controller may be made to a fair rents board (consisting of a police magistrate). The giving of notices to terminate tenancies or the taking of proceedings for the recovery of possession of premises to which the Act applies or for the eviction of tenants therefrom is prohibited except as provided by Part III of the Act. That Part, *inter alia*, prescribes the grounds upon which notice to quit may be given and the period of notice to quit, and such notice may not be given on any other ground. The right to distrain for rent is suspended and elaborate provisions are enacted for prohibiting evasions of the Act. This Act is to operate until June 30, 1950.

Land Acquisition.—The Public Authorities Land Acquisition Act, 1949 (No. 22), makes provision for the acquisition of land required by public and local authorities other than Departments of the Government, and replaces, so far as those authorities are concerned, the somewhat slow and cumbersome procedure laid down in the old Lands Clauses Act, 1857, which will, henceforth, apply only in respect of the taking of land by private "promoters" of undertakings. The new procedure for acquisition is assimilated, as nearly as practicable, to that laid down by the Lands Resumption Act, 1910 (which applies only to government

acquisitions). Thus a compulsory acquisition may be effected by a comparatively simple notice of acquisition published in the Government Gazette, but, unlike Crown acquisitions, the land acquired will not vest until the notice is registered. Provision is made for the determination of compensation, the redemption of mortgages, the release of incumbrances, the apportionment of rent where part only of leased land is acquired, and for the deduction from purchase money or compensation of any amounts due for rates, taxes, etc. This Act renders it possible for the acquiring authority to purchase or acquire estates and interests less than a fee simple absolute.

Constitution.—No. 27 re-defines the boundaries of the electoral divisions for the House of Assembly, and brings them into line with the boundaries of the corresponding Commonwealth electoral divisions.

Auxiliary Nursing Service.—No. 37 establishes an auxiliary nursing service and makes provision for the examination of candidates and the registration of persons in the service. It also prohibits the use, by unregistered persons, of any badge, distinctive headdress, or title which is prescribed for the use of persons registered under the Act.

Inflammable Liquids.—No. 39 extends the scope of the Inflammable Liquids Act, 1929, to other dangerous commodities (whether solids or gases) which may be proclaimed for the purposes of the Act.

Public Health.—No. 46 effects a number of important amendments to the Public Health Act, 1935. It extends the powers of local authorities to the making of by-laws regulating, controlling and prohibiting the deposit of night-soil or refuse on reserves and regulating the treatment of trade refuse; extends the powers of entry and inspection of premises conferred on the Director of Public Health and on local authorities by the Principal Act, confers on the Governor a power to make regulations providing for the disinfection of, and the prevention of nuisances or injury to health arising from, rags and other material used or stored in marine stores, and bedding and furniture manufactories; and inserts new provisions relating to the repair and demolition of unhealthy buildings and to the control of unhealthy public vehicles.

Sesquicentenary.—No. 47 makes provision for the official celebration of the 150th anniversary of the foundation of British settlement in Tasmania. A sesquicentennial committee, of which the Minister is to be the Chairman, is established and is clothed with authority to arrange and carry out any part of the celebrations on behalf of the Government; to arrange public celebrations; to make recommendations to the Governor from time to time on the best way to celebrate the sesquicentenary; and to conduct a competition for the best design for a commemorative building. Any such building shall be one which will relieve sickness or poverty, or improve the moral, mental, or physical welfare of the people, or aid in the increase or dissemination of knowledge in philosophy, philology, natural science, music, the arts, or any craft. The Committee is also authorized to recommend the publication in book form, either separately or together, of papers, essays, and lectures dealing with aspects of the early settlement of the State.

Fruit Board.—No. 51 extends the powers of the State Fruit Board to enable it to initiate and carry into effect schemes for the marketing of Tasmanian apples and pears in overseas countries.

Electoral.—No. 60 restricts considerably the activities of "canvassers" and political agents on polling days. The distribution of electoral advertisements, handbills, "how to vote" cards, etc. and the publication in newspapers of electoral advertisements and comments on any question or issue of an electoral campaign is prohibited on polling day or on any day to which the polling is adjourned. This Act also provides that an authorized witness who is convicted of any one of certain offences shall thereafter cease to be an authorized witness

and, if a justice of the peace, shall thereafter be incapable of being or acting as a justice of the peace.

Fisheries.—No. 65 repeals the provisions relating to the seizure and forfeiture of boats and other appliances used in the commission of offences, so far as those provisions relate to offences against Part III (sea fishing). Those provisions continue in full force and effect in relation to freshwater fishing.

Transport.—No. 69 is an important measure arising from a long-standing dispute between the Government and a majority of the members of the Legislative Council as to the powers and the activities of the Transport Commission. The Bill for this Act was referred for consideration to a Joint Committee of both Houses and was the subject of lengthy consideration by the Committee and of long, if not acrimonious, debate in Parliament. The resultant Act considerably restricts the powers of the Commission in certain respects, while still leaving it free to continue to operate its own road transport services in competition with private road operators.

This Act re-constitutes the Commission, which is now to consist of a Chief Commissioner and two Associate Commissioners, each being the holder of a particular office, viz., the Administrator of Road Transport and the General Manager of the State Railways (s.2). With the exception of certain scheduled services, the Commission is forbidden to initiate new services except upon a resolution of both Houses of Parliament (s.s. 3, 5) and its intention to seek Parliamentary authority for this purpose must be publicly advertised (s. 5). In addition, any proposed alteration of the conditions upon which any of the Commission's services are conducted (including fares, timetables and routes) is to be subject to the right of interested parties to object to the Public Vehicles Licensing Appeal Tribunal, which is referred to again hereunder (s. 3). With a view to ensuring fair competition with private operators, the Commission is expressly required to charge the same fares and charges as other persons conducting similar services (s. 3). The financial provisions of the principal Act have been completely overhauled and the Commission's financial statements must now make full provision for the charging of interest and the debiting of the fees, charges and taxes which would have been payable by it if it were a private operator.

The Act also provides that certain classes of public vehicle licences shall have effect for a three years' term in lieu of a year's term as formerly (s. 12), and establishes an Appeal Tribunal to which the holders of such licences may appeal against certain actions of the Commission (s. 17).

This right of appeal is conferred on any person if aggrieved by—

(a) The refusal of the Commission to grant him a public vehicle licence or to renew any such licence held by him;

(b) Any conditions or restrictions imposed on him as the holder of any such licence;

(c) The grant of a public vehicle licence to any other person or any variation in the terms and conditions of any such licence held by any other person.

The Act also provides that the Tribunal and not, as formerly, the Commission, shall have the power to cancel public vehicle licences (s. 15).

The Tribunal is to consist of a police magistrate (as chairman), a nominee of the Commission and a nominee of the Tasmanian Road Transport Association.

5. VICTORIA.

[*Contributed by* K. A. Aicken, Esq., *Barrister-at-Law.*]

1948

The legislative enthusiasm to which Dr. Woinarski referred in reviewing Victorian legislation for the year 1946 re-appeared in 1948, a year which saw

ninety-nine new Acts (Nos. 5263-5361) placed on the statute book. The Legislature ranged over a wide and varied field, from such detailed local matters as reserving a site for a suburban Town Hall (No. 5268), amending the definition sections of the Horsebreeding Act, 1928 (No. 5287), and authorizing the construction of tramways in certain streets (No. 5722), to general matters currently regarded as of political, economic or social importance such as the maintenance of essential public services in times of emergency (No. 5263), rent and price control (Nos. 5264 and 5310), commodity marketing scheme (Nos. 5320, 5338, 5353), and the financing of hydro-electric and briquette manufacturing schemes (No. 5272).

The year 1948 saw also the taking over by the State government of some social and economic controls formerly operated by the Commonwealth under war-time regulations made under the National Security Act. A number of Acts, some of which are noted in more detail below, reproduce usually with only minor alteration, the provisions of the former Federal regulations.

Emergency Legislation.—The Essential Services Act (No. 5263) gives the Governor in Council power to proclaim a state of emergency when any action has been taken whereby any essential service is or is likely to be interrupted. No proclamation is to remain in force for more than one month and provision is made for recalling Parliament (if not then sitting) if a prescribed number of members requests it. During a state of emergency the Minister may operate, control, regulate and direct any essential service. Penalties are provided for disobedience to the directions of the Minister, for intimidation of persons employed in essential services, for instituting lock-outs and for taking part in any strike in an essential service unless in a secret ballot conducted by the State Electoral officer a majority of employees in the service vote in favour of the strike.

Landlord and Tenant.—Two Acts (Nos. 5264 and 5291) substantially reproduce the former Federal regulations and deal with the control of rents and recovery of possession of leased premises. Rents are fixed at those prevailing on December 31, 1940, or the date of first leasing thereafter, but they may be varied by the Fair Rents Board. The control extends to both furnished and unfurnished lettings. Part III of the law restricts the circumstances in which a landlord may recover possession—a number of grounds are set out of which the most important are non-payment of rent and reasonable requirement for the landlord's own occupation. The familiar, if difficult, concept of "relative hardship" is introduced. Jurisdiction to make orders for recovery of leased premises is confined to courts of petty sessions consisting of a police magistrate (renamed by Act No. 5304 stipendiary magistrate) sitting alone. The law applies to both residential and business (including factory) premises. Part V of the law contains provisions enabling ex-servicemen to obtain possession of unoccupied premises or premises about to become unoccupied and also further protects the position of tenants who are ex-servicemen.

It may perhaps be observed that the provisions of these Acts have raised a number of difficulties and caused a number of leading cases comparable with those relating to the Rent Restrictions Acts in England.

Electricity.—The State Electricity Commission Act (No. 5272) authorizes the Commission to borrow a further £50 million to finance the brown coal briquette industry at Morwell and the extension of the hydro-electric scheme at Kiewa.

Improvement of the Statute Book.—The Statute Law Revision Committee Act (No. 5285) established a Joint Statute Law Revision Committee of both Houses of the State Parliament. The Committee is to examine anomalies in the statute law, proposals for consolidations of the statute law and proposals of "technical" alterations in the existing law. Whether this will lead to increased legislative activity with regard to "lawyer's law" remains to be seen.

Parliamentary Salaries.—The Parliamentary Salaries and Allowances Act (No.

5296) increases the salaries of members of the Legislative Assembly to £1,050 per annum and of the Legislative Council to £750. Ministerial salaries are also increased.

Hospitals.—The Hospital and Charities Act (No. 5300) consolidates and amends prior legislation. It sets up a Commission of three full-time members charged with functions in connection with management and control of hospitals, institutions and ambulance services.

Rivers.—The River Improvement Act (No. 5302) embarks on a comprehensive scheme for the control of rivers and water-courses and provides for the setting up of river improvement authorities. A somewhat pessimistic note is struck by the provision that disputes between public authorities are to be referred to the Governor in Council.

Price Control.—The Prices Act (No. 5310) provides for the exercise by State authorities of powers formerly exercised by Federal authorities. It provides for "declaring" goods and services and for the fixing of maximum prices and charges for "declared" goods and services. It contains familiar machinery clauses and penalties. The political temper of the times may perhaps be judged by the fact that the official charged with administering the Act is the Prices Decontrol Commissioner.

Wheat and Barley.—The Barley Marketing Act (No. 5320) is another example of the taking over by the State of control formerly exercised by the Commonwealth under war-time powers. It is complementary to similar legislation in South Australia and provides for setting up a joint Barley Marketing Board. Growers must deliver all barley to the Board which is to market it to the best advantage and pay the growers from the net pooled proceeds. The Act is not to come into operation unless a poll of barley growers first approves, a curiously tentative application of the principle of planning.

The Wheat Industry Stabilization Act (No. 5338) is Victoria's part in a legislative scheme to continue the war-time control of the wheat-growing industry. It is complementary to a Federal Act and to Acts in each of the States. It enables the Australian Wheat Board to continue the wheat "pools" and gives the Board compulsory powers of acquisition.

Judicial Arrangements.—The Master of the Supreme Court Act (No. 5329) provides for the appointment of a Master of the Supreme Court of Victoria who is to take over the functions of the Master in Equity and the Chief Clerk.

Control of Hides.—The Hide and Leather Institute Act (No. 5353) is again part of a legislative scheme with the Commonwealth and other States to continue control of the hide and leather industries with the state and object of "stabilizing" it and of regulating prices. All hides are to be submitted to the Board for "appraisement"—on appraisement hides vest in the Board and the sale of hides which have not been appraised is forbidden. The Board also determines what hides are to be used for home consumption and what for export.

Cancer.—The Cancer Institute Act (No. 5341) establishes a Cancer Institute for the purpose of research and treatment.

Railway Gauges.—The Railways Standardization Agreement Act (No. 5348) ratifies Victorian participation in an agreement between Commonwealth and other States for the standardization of railway gauges. No works are to be undertaken without Parliamentary approval. A long-standing problem this, though of an economic and technical, rather than a legal, character.

6. WEST AUSTRALIA.

[*Contributed by* R. V. Nevile, Esq., *State Crown Solicitor.*]

The Marketing of Barley Act Amendment (Continuance) Act.—Varies the time of operation of the principal Act from three years after the date of proclamation so that its operation ceases on December 9, 1952.

The Charitable Collections Act Amendment Act.—Makes void any contract or arrangement made after the coming into operation of the amendment, which has not been submitted and approved, where the condition of a licence requires that, before being made, any proposed contract or arrangement relating to payment from moneys in hand or to be obtained for any charitable purpose, shall be submitted to and approved by the Minister; and any money received by any person in purported pursuance of such void contract or arrangement shall be recoverable in any Court of competent jurisdiction as a debt due from that person at the suit of the Minister or any person so authorized by him. Any money so recovered shall be appropriated to the charitable purpose for which it was obtained, less the cost of recovery if such cost has not been recovered. In addition to the Auditor-General or some other officer appointed by him for the purpose, an officer authorized by the Minister may inspect, examine and audit accounts relating to moneys raised or collected for any charitable purpose.

The Marketing of Potatoes Act Amendment Act.—Deletes that portion of section 22 which permitted the dealing with potatoes, with approval of the Department of Agriculture, for seed purposes.

The Mental Institution Benefits (Commonwealth and State Agreement) Act.—Authorizes the State to enter into, execute and carry out an agreement with the Commonwealth respecting mental institution benefits.

The Public Service Appeal Board Act Amendment Act.—Deletes from the definition of "Public Servant" persons employed under section 12 of the Agricultural Bank Act, 1906, and provides that, after November 22, 1948, "Public Servant" does not include an officer of the Rural and Industries Bank of Western Australia. Abrogates the Board's jurisdiction to hear and determine appeals from the Managing Trustee of the Agricultural Bank.

The Administration Act Amendment Act.—Increases the interest of the husband or wife in the estate of the other dying intestate from £500 to £1,000, where death occurs after the coming into operation of the amendment.

The Rights in Water and Irrigation Act Amendment Act.—Empowers the Governor, on Ministerial recommendation, with the advice of the Commissioners, by Order in Council to divide a district into sub-areas and to define or alter the boundaries of, or abolish, sub-areas.

The Water Boards Act Amendment Act.—Provides that the Governor may approve the Board's borrowing money either unconditionally or subject to conditions he may decide to impose. Where the Board does not comply with the requirements of any condition the Governor's approval shall, unless the Governor otherwise orders, be cancelled, and any unexpended portion of the money borrowed shall not be used except as the Governor in Council may direct.

The Plant Diseases Act Amendment Act.—Varies the scale of charges for baiting of fruit trees or vines carried out by or on behalf of the Committee to administer the scheme, and enlarges the powers of the Committee with respect to recovery or refund of payment.

The Plant Diseases Act Amendment Act (No. 2).—Substitutes the word "pest" for "parasite" in the definition of "Disease" and defines "pest" as fungus, virus, insect, mite, mollusc or nematode, and such animal or plant groups of parasitic nature as are declared by proclamation to be pests.

The Superannuation, Sick, Death, Insurance, Guarantee and Endowment (Local Governing Bodies' Employees) Funds Act Amendment Act.—Provides that "Corporation," for the purposes of this Act, shall also include a Board of Parks and Reserves appointed under the Parks and Reserves Act, 1895-1947.

The Tuberculosis (Commonwealth and State Arrangement) Act.—Authorizes the State to enter into, execute and carry out an arrangement with the Commonwealth respecting a campaign to reduce the incidence of tuberculosis in Australia.

The Rural and Industries Bank Act Amendment Act.—Vests the power to employ, appoint, promote, transfer, terminate the employment of or dismiss any person, exclusively in the Commissioners and abrogates the operation of the Public Service Act after November 22, 1948. Provides that, for the purpose of long service leave, the period of service with the Agricultural Bank shall be deemed to be service in the employ of the Commissioners and provides for compensation for service prior to November 22, 1948, and for the method of computation of service for that purpose. Long service leave or payment in lieu, where the officer is eligible, shall be taken at the discretion of the Commissioners and the method of payment, where appropriate, is provided for.

Sections 37, 38 and 39, relating to officers in the employ of the Agricultural Bank, are repealed.

The Government Employees (Promotions Appeal Board) Act Amendment Act.—Deletes from the definition of "Department" the Rural and Industries Bank of Western Australia.

The Farmers' Debts Adjustment Act Amendment (Continuance) Act.—Extends the operation of the Act to March 31, 1952.

The Acts Amendment (Increase in Number of Judges of the Supreme Court) Act.—Increases the number of Judges of the Supreme Court from three to four.

The Guildford Old Cemetery (Lands Revestment) Act.—Revests in the Crown the old Guildford Cemetery for the purpose of road widening and granting the unrequired portion with perpetual disabilities to the Perth Diocesan Trustees.

The Marketing of Eggs Act Amendment Act.—Provides that producers having a permit to sell eggs to other than the Board, and persons having a permit to purchase eggs from producers not issued with such a permit, shall make contributions to the Board administration account and that eggs dealt with for the purpose of hatching shall be exempt from all charges under the Act.

The Increase of Rent (War Restrictions) Act Amendment Act. — Enacted Commonwealth Regulations, relative to the subject, which had lapsed.

The Liquid Fuel (Emergency Provisions) Act.—Vests in the Governor power, in emergency, to make by proclamation regulations regarding the use of liquid fuel containers and liquid fuel; authorizing the taking possession or control of liquid fuel and containers; appointing local authorities or persons and conferring or imposing on them powers and duties for the carrying into effect of the regulations, requiring the disclosure of information as to liquid fuel containers in the possession of any person; authorising the entry upon or search of any premises, and prescribing matters or things necessary or expedient or incidental to effect the purposes of the Act or Regulations. The Regulations may authorize the Minister any local authority or other person to exercise like powers, and they may be made so as to operate through the whole or any part of the State and for any period and may be of general or special operation.

The Adoption of Children Act Amendment Act.—Defines "child" as a person under the age of 21 and increases the powers of the Judge so that he may dispense with the consent to adoption of the putative father of an exnuptial child, the consent of the parent or guardian, or the consent of a child over 12 years. He must state the reasons for the dispensation in the order.

Section 9 is amended so that any variation, discharge or reversal of an order of adoption shall incorporate a direction as to the name by which the child concerned shall thereafter be known and as to the names of the persons who shall be regarded as its parents. The order of adoption shall also specify the christian name of the child.

The return of adoption furnished every six months by the Registrar of the Supreme Court to the Registrar-General shall also include the terms and conditions of any variation, reversal or discharge of any order of adoption and such information shall also be recorded in the entry of birth of the adopted child.

Where an order of adoption is made after the coming into operation of the amendment, the Registrar of the Supreme Court shall forthwith provide the Registrar-General with a certified copy of the order of adoption, together with the particulars of the date and place of birth and the christian and surnames by which the child shall thereafter be known, and the name and surname and residence of the adopting parent or parents.

The Registrar-General shall then re-register the birth of the child in accordance with the particulars disclosed. Particulars of conditions of variation, reversal or discharge of an order of adoption shall forthwith be given by the Registrar of the Supreme Court to the Registrar-General for endorsement on the registration and re-registration of the birth of the child concerned.

Where an order of adoption is made before the coming into operation of this amendment, or a certified copy of an order made in another State is filed in the Supreme Court, the Registrar-General, formerly the district registrar, may re-register the birth of the child, with particulars of date and place of birth and christian and surname by which the child shall thereafter be known, together with a reference to the order of adoption. Original entry of birth and duplicate in general registry shall not be open to inspection and no certified copy shall be issued without the approval of the Registrar-General.

The Prices Control Act Amendment (Continuance) Act.—Continues the operation of the principal Act for 1 year, to December 31, 1950.

The Canning District Sanitary Site Act Amendment Act.—Provides that certain land, which might not be used as a sanitary depot on and after January 1, 1950, may not now be used as such on and after January 1, 1955.

The Petroleum Act Amendment Act—Deletes section 55 in the principal Act, relative to the granting of petroleum leases, and provides by a new section 55 that the Governor may grant leases to any person complying with the provisions of the Act relating to permits to explore and licences to prospect. Except in exceptional circumstances, the Governor shall not grant leases to a person not domiciled, nor a company not formed, within the Commonwealth, and there shall be a maximum area of 100 square miles and, unless with Ministerial approval, a minimum of 4 square miles. A person holding a licence to prospect, discovering petroleum in the area covered by the licence, is entitled within six months, or such further period authorized by the Minister in his discretion, to select the area required under the petroleum lease, and upon application and payment of fees he shall be entitled to a grant of petroleum leases necessary to comply with the entitlement.

Leases shall be for a term of 21 years renewable for any further period during which petroleum in payable quantities is produced from at least one well, if during the last six months of the original term the lessee so applies to the Minister and pays the fees prescribed, and has observed the provisions of the Act or Regulations and the lease.

Whereas the covenants of the lease provided that the lessee refine all crude petroleum in Western Australia or some other part of Australia approved by the Minister, and not to export it outside Australia without similar approval, he shall now covenant to ensure that, if required by the Minister, the petroleum and its product shall be disposed of only for consumption in Australia, so long as it can be consumed in Australia, and, if similarly required, refine, or cause to be refined in Western Australia or some other part of Australia approved by the Minister, such petroleum required for consumption in Australia.

"Australia" means the Commonwealth and includes mandated or trust territory.

The Electoral Act Amendment Act.—Provides that where the whole or any part of any district becomes included in another district, the member and his wife may claim to be enrolled for that other district, and if he is a candidate for that other district, he and his wife may vote in that district at the next election and are

deemed to live in that district. Provision is made for the establishment of polling booths, for any district or province, partly or wholly within the boundaries of any adjoining province or district and the questions to be put by the presiding officer to any person claiming to vote are altered accordingly.

The Building Operations and Building Materials Control Act Amendment (Continuance) Act.—Continues the operation of the principal Act for one year, to December 31, 1950.

The City of Perth Scheme for Superannuation (Amendments Authorization) Act.—Deletes from the scheme all reference to the Electricity and Gas Department and, with reference to the control of the Superannuation Fund, replaces the General Manager of the Electricity and Gas Department with the City Treasurer of the Council. Whereas the Electricity and Gas Department formerly contributed a sum not exceeding £1,700 per annum and other departments of the council a sum not exceeding £1,800 per annum, for 21 years from July 1, 1947, the Council now contributes a sum not exceeding £1,800 from July 1, 1949, such annual sum to be assessed by an actuary as soon as possible after July 1, 1949, and from time to time thereafter as may be necessary in the opinion of the actuary.

The amended scheme is only to operate if and when certain provisions of the principal Act are complied with.

The Traffic Act Amendment Act.—Increases the time allowed for the return of number plates from 14 to 15 days after expiry of the vehicle licence. Where neither a first half nor a first or second quarter licence has been issued in any financial year, if the vehicle was licensed at the close of the preceding financial year and a licence for the second half or the third or fourth quarter is applied for, and where a licence has been issued for the first quarter but not the second, and a second half or third or fourth quarter licence is applied for; and where a licence has been issued for the first half or the second quarter, but not the second half or third quarter and a fourth quarter licence is applied for; otherwise no licence shall be issued.

The time allowed for the return of plates is similarly increased where the holder of a licence for the first half does not require a licence for the second half, and the holder for any quarter does not require a licence for the succeeding quarter in the same financial year.

The time allowed for the return to the Commissioner of Police of number plates of vehicles licensed in the metropolitan area, which licences have expired, is reduced from 21 to 15 days.

Exemption from licence provisions penalty is extended to vehicles being driven or towed for the purpose of repair, but a permit must first be obtained by the owner from the local authority in whose district the journey commences.

The Licensing Act Amendment Act.—Makes knowledge of minority essential to the offence of supplying liquor to a person under the age of twenty-one and the recipient must in fact be a minor and not merely apparently so. It is unnecessary that a minor falsely represent himself to be of age, and he commits an offence if he is in fact a minor and obtains or attempts to obtain liquor at licensed premises. The penalty is increased from £5 to £20.

The Fire Brigades Act Amendment Act.—Increases the total annual maximum remuneration to board members from £550 to £850.

The Wheat Pool Act Amendment Act.—Provides that in contracts made by or with the corporation, relating to the sale of oats, where a reference is made to the W. A. standard feed oats, certain qualities and standards shall be implied, unless the contrary intention appears in the contract.

The Western Australian Transport Board (Validation) Act.—Validates the constitution and functions of the Western Australian Transport Board.

The Workers' Compensation Act Amendment Act.—Provides that a worker receiving compensation under provisions of the 1912-1944 Act for an injury received

prior to April 8, 1949, and continuing after that date shall, as from that date, receive compensation under the provisions of the 1912-1948 Act, but this shall not apply so as to increase payments made before that date.

The necessity of a worker coming to Western Australia after the commencement of the Act to lodge a medical certificate that he is free from pulmonary tuberculosis, silicosis, pneumoconiosis and miner's phthisis, before he or his dependents shall benefit under the Act, is abrogated. The distinction between the maximum compensation in respect of those diseases contracted before and after the 1948 amendment is removed and the later scale applies.

The authority of the State Government Insurance Office to insure employers in mining operations is extended from parts of the State defined by proclamation to all parts of the State.

The annual contribution leviable by the board for the fund to provide for compensation for workers whose employers have failed to insure and who are unable to pay compensation is increased by the addition of the sum estimated for the payment of inspectors appointed for the purpose of investigating the aggregate amount of remuneration paid by and the number of employees engaged by an employer who has provided for his liability by means other than insurance, or an employer required by the conditions of his contract of insurance to disclose such information. The powers of the board are enlarged to include the appointment of such inspectors.

The Premium Rates Committee is enlarged by the inclusion of the three members of the board.

The First Schedule is amended to provide that maximum weekly payments, which included payments in respect of dependent children, shall include payments in respect of all dependents.

The Bush Fires Act Amendment Act.—Provides that persons burning off during the prohibited period, in any area declared by the Governor to be a fire protected area, with Ministerial permission, shall not thereby be relieved of liability for damage so caused. The close of the period during which the Minister may suspend the operation of the declaration with respect to land used for railway purposes is extended from December 24 in any year to January 15 in any year.

Persons burning off between October 1 and May 31 in any area shall not be relieved of liability for damage caused, even though they have complied with the conditions imposed by the principal Act. Provisions relating to the exemption from liability of any person for damage caused during burning off operations in compliance with the principal Act and without negligence are abrogated.

The Pearling Act Amendment Act.—Provides that a ship owner may arrange with the first diver, whether qualified within the meaning of the principal Act or not, for the carrying on of pearling operations on and from the ship, upon terms for a period not exceeding one year, which include provisions that the first diver's remuneration shall consist wholly of a percentage, not exceeding 60 per cent. of the net proceeds of pearl shell recovered, and that he shall pay the whole or part of the wages and the cost of victualling the ship's crew, and indemnify the owner against such liability.

Such a contract shall not render either party or the ship subject to the liabilities consequent upon an unqualified person acquiring an interest in the ship and the contract shall not be deemed to vest in or confer upon the first diver any interest in the ship.

"First diver" is defined as the person directing pearling operations.

"Net proceeds" is defined as the price paid or payable for pearl-shell to the ship owner, less its insurance, freight and selling commission.

The provisions relating to the prohibition of cultivation, sale, dealings, or possession of culture pearls are abrogated.

The Bread Act Amendment Act.—Renders the provisions relating to the hours for delivery of bread subject to the provision that, within a 25 mile radius

of the G.P.O., Perth, and an 8 mile radius of the principal post office Kalgoorlie, no bread or Vienna bread shall be dealt with within 3 hours of the time specified for the commencement of baking operations.

Provisions relating to holidays and pay in lieu, of bread carters within the areas above mentioned, are abrogated and they shall now receive, and be granted, holidays in accordance with the provisions of the industrial award or agreement for the time being in force under the provisions of the Industrial Arbitration Act, 1912-1948, and applying to the delivery of bread in the respective portions of the State.

The Collie Mine Workers (Pensions) Act Amendment Act.—Amends definition of "mine worker" to exclude persons who on or after January 7, 1949, have ceased to be so employed, except where cessation of employment is due to absence referred to in the principal Act and employment is resumed.

Provisions for the reduction of pension in order to render the recipient eligible to receive a pension under the Commonwealth Invalid and Old Age Pensions Act, 1908, shall cease to have effect on and from a day to be fixed by proclamation.

The Increase of Rent (War Restrictions) Act Amendment Act (No. 3).—Increases the types of premises to which the provisions as to recovery of possession and eviction do not apply, by the inclusion of those for which an Australian wine licence under the Licensing Act, 1911, subsists.

The Industrial Arbitration Act Amendment Act.—Provides that where formerly questions of interpretation of an industrial agreement, arising in any proceeding before an Industrial Magistrate, in whom the powers and jurisdiction of the Court regarding enforcing of industrial awards and agreements is vested, were referred to the Court, now any party to such proceedings may appeal to the Court from his decision or penalty and the Court may reverse, modify or vary the decision or penalty as it thinks fit.

Provisions relating to the right of appeal from the Court to the Court of Criminal Appeal apply whether conviction is by the Court itself or by way of confirmation, wholly or in part, of the decision of an Industrial Magistrate.

The operation of a declared basic wage, formerly from the first of the next ensuing July until the 30 day of the following June, may now in the alternative commence from a date fixed by the Court and remain in effect until the day before the date on which the next annual basic wage declaration shall take effect.

The War Service Land Settlement (Notification of Transactions) Act.—Provides for the notification of transactions affecting rural land likely to be required for settlement by former members of the Defence Forces. No person may deal with such land without first notifying the Minister, nor within 40 days or such lesser period as he may certify, of so notifying.

The Governor may, by regulation, exempt from the whole or any provisions of the Act, persons, lands and transactions of a class specified in the regulations and lands situated in any part of the State as specified. A transaction in contravention of the Act or any conditions imposed or exemptions is not thereby invalidated but will render the principals liable to a penalty. The Registrar of Titles or Minister for Lands, or other proper officer, may require such evidence as he deems necessary that a transaction does not so contravene where an instrument is submitted for registration and may refuse to register until such evidence is submitted.

Power to make regulations consistent with the Act is vested in the Governor.

The operation of the Act continues until December 31, 1950.

The Pig Industry Compensation Act Amendment Act.—Provides that where the owner of pigs or carcases of pigs sold was formerly obliged to transmit a statement to the purchaser, setting out the number sold and the purchase price of each, stamped with pig duty stamps duly cancelled, by registered letter, the statement may now be sent by ordinary letter.

The Marketing of Apples and Pears Act.—Constitutes a board for the purpose of acquiring apples and pears harvested in the State. The Board shall consist of the members of the State committee for Western Australia under the Commonwealth Regulations and it shall have like powers. The effect of the Act depends upon an agreement with the Commonwealth to be made before December 31, 1949, otherwise it shall have no force or effect.

The Footwear Regulation Act Amendment Act.—Includes in the interpretation of "shoes" slippers and sandals and excludes from the interpretation of "sole" thread, wax, rivets, pegs, nails, toe plates and heel plates.

Includes in the list of interpretations "Statement of materials" and defines it as a statement of materials composing the sole; also "To sell," which is defined as meaning wholesale or retail and includes barter, supply for profit, offer, receive, have in possession, expose, send forward or deliver, for sale, or to cause the same, and dealings under hire purchase agreement.

Section 4, relating to the stamping of footwear, the soles of which are not composed entirely of leather, is repealed and substituted therefor is a prohibition against the manufacture for sale or sale of boots and shoes unless the outsole is marked in accordance with regulations, with a statement of materials, unless the outsole is wholly of rubber.

The power to make regulations regarding the prohibition of dealing with boots and shoes, the soles of which are unstamped, is abrogated.

Provisions relating to the publication and disallowance of regulations are repealed.

The Companies Act Amendment Act.—Substitutes for the definition of "officer," "manager or secretary of a company."

Section 46, relating to the filing of prospectuses, shall not apply to those issued to existing members or debenture holders, nor to forms of application relating to shares or debentures of the company, nor to the issue to existing members of a transferor company of a prospectus or form of application relating to shares in a transferee company.

Where, under section 48, an abridged prospectus is published by way of advertisement, stating where the full prospectus may be obtained, together with forms of application for shares, which forms only may be used and which are endorsed upon or annexed to, but detachable from, the prospectus, in the latter case it is no longer necessary for the applicant to endorse upon it and sign a memo to the effect that he has perused the prospectus.

Section 53 and 54 relating to restriction and prohibition of allotment of share capital shall not apply where the persons concerned are existing members or debenture holders or existing members of a transferor company, or the matter relates to shares in a transferee company.

Provisions relating to the prohibition of financial assistance by the company to any director shall not apply to co-operative companies registered under the provisions of the repealed Acts or Part VI of the principal Act.

Provision for the necessity to have the company's name on all "notices and advertisements" is altered so that this shall apply to "business letters of the company and all notices" and the penalty provisions are altered accordingly.

Restrictions on commencement of business where a company having share capital has not issued a prospectus, are extended to include one which has issued a prospectus but has not proceeded to allot upon applications received.

Power to close the register is increased from 28 to 56 days.

Special resolutions referred to in section 121 (4) (a), which must be filed with the Registrar, are those which alter the capital or memorandum or articles of the company.

The maximum time allowed for the profit and loss account or balance sheet to be made up is altered from 3 months to 6 months preceding the general meeting before which it must be laid. For a company carrying on business or

having interests outside Australia, this period is altered from 6 months to 9 months. It is provided that a partnership registered under the Business Names Act, 1942-1946, may be appointed auditors to a company under the business name registered, if every partner resident in Australia is registered as an auditor under the principal Act.

Section 138, dealing with disqualification from appointment as auditor, is repealed and a new section inserted, providing that no person shall be qualified as auditor of a company while—

(a) a director, officer or servant of a company;
(b) partner or employee of an officer or servant of the company or employer of an officer of the company;
(c) a body corporate;
(d) indebted to the company for more than £200.

Provisions of (a) and (b) do not apply where it is a proprietary company and the person who has been appointed is auditor of a proprietary company by special resolution.

"Company" in (a), (b) and (d) includes the company's subsidiary or holding company and a subsidiary of its holding company. "Holding company" is defined in section 129 of the principal Act. "Officer or servant" of the company does not include an auditor of the company.

The period within which the return of particulars prescribed, and of appointment of directors, and any change in directors, must be sent to the Registrar, is extended from 14 to 28 days.

Where a director of a company gives general notice that he is a member of a specified company or firm and may be regarded as interested in any contract which may, after the notice, be made with such company or firm, such notice will be of no effect unless given at a meeting of directors or he takes reasonable steps to ensure that it is brought up at the next meeting of directors.

Exemption from the provisions whereby a director interested in contracts made with the company may not vote on resolutions relating to such proposed contracts is extended to the director of a public company if, and so long as, the articles of association of such company expressly provide that such provisions shall not apply in the case of such company.

The 6 years allowed for an aggrieved person to apply for the company's re-registration, where it has been struck off the register as defunct, shall, where the company is struck off under the provisions of any repealed Acts, be computed from the date of commencement of the principal Act.

The definition of "unregistered company" in the provisions relating to the winding up of unregistered companies, is amended to exclude companies registered under the repealed Acts.

The necessity to state in advertisements the name of the company, the country in which it is incorporated, and whether the company is limited, is abrogated.

The necessity for a foreign company to keep a register of shareholders shall apply only to those having shareholders resident in the State.

Notwithstanding any other provisions of the principal Act, the provisions of sections 347-360 inclusive, that is, provisions relating to the keeping of a local register by a foreign company; the transfer of shares from the local to the head office register; the vesting in the agent or local board the power to reject transfers; the transfer of shares to the local register; inspection of the register; the closing of the register; the validity of the transfer of shares of a deceased person; notice of rectification, dividends, reconstruction by liquidation, reservation of right or option accruing to members, shall apply to any company incorporated outside the State and carrying on within the State the business of life assurance or banking. Such companies shall establish the local register within 2 months of October 26, 1949. For the purposes of sections 347-360 inclusive, the manager in this State of such a company is deemed to be the agent of the company

and the principal place of business of such a company in this State shall be deemed to be the registered office.

Notwithstanding the provisions of sections 367 and 368, relative to prospectuses of foreign companies inviting subscriptions for shares or offering shares for sale, and the requirements as to prospectus, where a prospectus complying with those sections has been issued, it shall not be necessary in any advertisement of that prospectus in a public newspaper to insert the particulars or matters required by those sections, except those with respect to the date, the fact that a copy has been duly filed, the names, description and addresses of the directors or proposed directors, and the number of shares subscribed by them respectively, and with respect to the minimum subscription on which the directors may proceed to allotment; provided that the advertisement states that the advertisement is an abridgement of a prospectus, that copies thereof and of the full prospectus have been filed with the Registrar, where in Perth copies of the full prospectus and forms of application for shares may be obtained, and the primary object with which the company was formed.

It must also state that applications for shares will be received only on one of the forms of application referred to, and, as the case may be, either endorsed upon or annexed to, but detachable from the full prospectus. The advertisement must not contain anything to which the said requirements apply and which is not in the prospectus, or is inconsistent with the prospectus.

In the provisions relating to certification of documents, "solicitor" means a practitioner of the Supreme Court of Western Australia, as defined by the Legal Practitioners Act, 1893-1948.

Any register, index or account required by the Act to be kept by a company may be kept either in bound books or in any other manner, but if kept in the latter fashion, adequate precaution against falsification and for facilitating its discovery must be taken and, in default of such provisions, the company and every officer in default, shall be liable to a penalty of £50 and a penalty of £2 for each day the default continues.

Tables A and B of the Second Schedule are amended to provide that the fixing of remuneration of directors at an extraordinary general meeting is not deemed to be special business. The power of the directors to fix the remuneration of the managing director or manager appointed from among their number is abrogated.

The form of statutory declaration of form C of the Sixth Schedule is replaced by a certificate.

The Fisheries Act Amendment Act.—Increases the power of the Governor to make regulations to include regulations with respect to the taking of crustacea; prescribing licences required under the Act and regulations and maximum fees payable for such licences. The power to make regulations as to conditions of licences issued and the persons to whom they may be issued is made subject to the discretion of the licensing officer, vested in him by virtue of section 17.

Sections 13, 14, 15 and 16 relating to the licensing of boats, commercial fishermen, and the users of seine nets, and the forms and fees for licences, are repealed. The provisions relating to the granting of licences at discretion and on conditions shall apply to any licence.

Provisions relating to the furnishing of returns of fish are replaced by new provisions specifying in detail the operations in respect of which returns are required. The Chief Inspector of Fisheries, if directed by the Minister, shall require such returns by notice in writing, specifying the person to whom the return shall be furnished. The notice may specify times and periods and require separate particulars in respect of weight, quantity, value or price of varieties of fish or species or parts of fish, or fish product, or as to locality where any variety or species was taken. Contravention or falsification constitutes an offence.

Under the provisions for penalty for having underweight or undersize fish, it is no defence that the person charged is the servant or agent of the owner, or

is a person to whom the fish are entrusted. A servant or agent charged, if he prove that the fish are in the same state as when he received them from his employer or principal, and that he had no knowledge that they were underweight or undersize, may, even though his employer or principal has been convicted and fined, recover from the employer or principal the penalty and costs incurred, and the Court may suspend the operation of the conviction for a maximum of 3 months to enable him so to recover the penalty and costs.

Subject to the Act, and with the consent of the Minister, a trout acclimatization society may make by-laws effective within the area in which the society is registered, with regard to defined subjects. If any such by-law should conflict with the provisions of the Act or regulations, or by-laws under the Road Districts Act, 1919-1948, the latter provisions shall prevail.

The date on or before which the statement of operation and accounts must be furnished by the trout acclimatization society is altered from January 31 to July 31 and the period covered is altered from December 31 to June 30.

The Second Schedule is repealed and replaced by another which includes crustaceans.

The Wheat Industry Stabilisation Act Amendment Act.—Provides that the three members of the State Board selected by the Minister from persons nominated by the Farmers' Union of W.A. (Inc.) shall be members only until that union has elected four persons to replace them; and that the two persons occupying the offices of chairman of directors and manager of Co-operative Bulk Handling Ltd. shall be members only until the operation of this amendment, when the former shall cease to be a member.

Provision for appointment on failure to nominate is extended to failure to elect.

Tenure of office is made subject to the Act in general and to the provisions relating to the ascertainment of the Board members representing the interests of wheat growers and licensed receivers in particular.

Election of members to represent the interests of wheat growers shall take place when a vacancy is about to occur by effluxion of time and a retiring member is eligible for re-election.

The reconstruction of the State Board shall not affect the nomination from the representatives of the wheat growers, to the Commonwealth Board until such time as another representative is nominated in his stead.

Penalties for contravention of the principal Act apply for contravention of the regulations, and offenders may be prosecuted summarily.

The Marketing of Eggs Act Amendment Act (No. 2).—Provides that, wherever any office of member of the Board, being that one filled by nomination by the Minister of a commercial producer whose main source of income is derived from poultry farming, or any of those two, who are commercial producers and are elected by the commercial producers for appointment by the Governor, becomes vacant, it shall be filled by appointment by the Governor, of a person who is a commercial producer and who is elected for the appointment by the commercial producers, and the provisions relating to the constitution of the Board shall be subject to these provisions.

IV. NEW ZEALAND.

[*Contributed by* H. D. C. Adams, C.M.G., LL.B., *Law Draftsman.*]

The third and last session of the twenty-eighth Parliament, which commenced on June 28, 1949, ended early (on October 26) to enable the election to be held before the end of the year, but nevertheless produced 52 Public Acts, besides 13 Local Acts and 4 Private Acts.

There were consolidations of the law relating to transport, the Government

Railways, fire services, forests, physiotherapy, co-operative dairy companies and education lands. New Acts included those dealing with military training, radioactive substances, occupational therapy, industrial relations, licensing trusts, wool labelling, and the enforcement of promises to make testamentary provision as a reward for services rendered.

Military Training.—Act No. 2 provided for the taking of a poll of the Parliamentary electors on a proposal for military training. The poll had no legal effect, but the proposal having been carried, the Military Training Act (No. 23) was passed later in the year. Part I of this Act made every male British subject ordinarily resident in New Zealand liable on reaching the age of 18 years to undergo whole-time training in the armed forces for 14 weeks, followed by 3 years in the Territorials, during which 60 days' part-time training is required, and finally 6 years in the Reserve. Applications for postponement of service on the ground of hardship may be granted by Postponement Committees or, up to 12 months, by the Director of Employment.

A Conscientious Objection Committee may register applicants in a register of conscientious objectors either unconditionally (in which case they are not liable for any service), or subject to the condition that they are to be employed only in non-combatant duties. Under section 36, the Committee may order a conscientious objector to make payments to the Social Security Fund to ensure that for a period of 158 days (i.e. 14 weeks plus 60 days) his financial position is no better than if he were serving as a private in the Army. Section 55 prohibited the supply of intoxicating liquor to trainees or the establishment of wet canteens in the training camps.

Part II safeguarded the rights of employees and apprentices, on the general principle that they are to be treated as having leave of absence for their periods of training, and are entitled to resume their employment on the same terms as if they had not been absent.

Minimum Wage.—Act No. 5 increased the minimum wage for males to 3s. 3d. an hour, £1 16s. a day, or £6 5s. a week, and for females to 2s. 2d. an hour, 17s. 4d. a day,or £4 3s. a week.

Industrial Relations.—Act No. 6 provided for the appointment by the Minister of Labour of an Industrial Advisory Council to report from time to time on ways and means of improving industrial relations and industrial welfare, with special reference to such matters as incentive payment, profit sharing, and similar schemes, the safety and health of workers, the provision of amenities, and the establishment of works committees and other employer-worker organizations. Similar Advisory Councils may also be appointed for specified industries or localities. Regulations may provide for the establishment on a voluntary basis of works committees representing workers and employers. Section 8 empowers a Conciliation Commissioner under the Industrial Conciliation and Arbitration Act, 1925, to call compulsory conferences of the parties to endeavour to secure a settlement of any industrial dispute where a strike or lock-out exists or is threatened.

Workers' Compensation.—Part I of Act No. 11 increased the maximum amount of compensation payable on the death of a worker from £1,500 to £1,750, and the maximum weekly payments of compensation from £5 10s. to £6. Section 6 provided for the payment of the transport expenses of workers ordered to submit to medical examination by medical referees. Part II provided for the exemption from compulsory employers' indemnity insurance of the National Airways Corporation, the Linen Flax Corporation, and Commonwealth shipping companies entered in United Kingdom mutual protecting clubs.

Transport.—The Transport Act (No. 7) consolidated (with amendments) the law relating to road and harbour-ferry transport—that is to say, motor vehicles, road traffic generally, motor spirits taxation and mileage tax, third party risks insurance, road transport services, and harbour ferry services. In

order to simplify the law, and to reduce its bulk and complexity and the risk of overlapping and consequent inconsistencies, the Act combined not only the Acts dealing with the above-mentioned matters, but also all the provisions relating to transport that were formerly scattered throughout various other Acts. Part VI dealt fully with road services, goods services, and harbour ferry services. The device in Part III of the Transport Licensing Act, 1931, of providing for goods services by Orders in Council applying the provisions relating to passenger services with modifications was not repeated.

Government Railways.—Act No. 40 consolidated and amended the Government Railways Act, 1926, and its amendments. Sections 63 to 65 relate to traffic at railway crossings. The law of negligence is affected by section 63 (3), which exempts the Crown from liability for failing to provide a crossing keeper or a warning device at any crossing, and by section 65, which gives rail traffic the right of way at crossings and exempts the Crown from liability by reason of railway employees acting on the assumption that other traffic will keep clear, subject to an obligation on every railway employee to take reasonable steps if he has reason to believe that a collision is about to occur.

Physiotherapy.—The Physiotherapy Act (No. 8) consolidated and amended the Masseurs Registration Act, 1920, and its amendments. The Act changes the terms "massage" and "masseur" to "physiotherapy" and "physiotherapist," which, at whatever cost to euphony and simplicity, apparently led to uniformity with other countries. The other amendments were mainly to bring the Act into line with the several other Acts relating to the registration and qualifications of persons practising professions, e.g. surveyors, dentists, and nurses.

Occupational Therapy.—Act No. 9 is a new Act on similar lines providing for the registration of occupational therapists.

Medical Practitioners.—The Medical Practitioners Amendment Act (No. 37) gave the medical profession disciplinary powers over its members, particularly in relation to matters arising under the provision of State medical benefits under the Social Security Act, 1938. The Act set up a Disciplinary Committee of five doctors, four to be appointed by the New Zealand Branch of the British Medical Association and one by the Minister of Health. The Committee may inquire into charges of professional misconduct, and punish them by a penalty not exceeding £100, censure, and an order for payment of costs. On complaints under the Social Security Act it may make recommendations to the Minister and impose costs. The Committee is not given power to strike practitioners off the register, and must refer to the Medical Council any charge amounting to grave impropriety or infamous conduct in a professional respect. Divisional Disciplinary Committees may be set up, to which the Disciplinary Committee may delegate authority to conduct the hearing of enquiries wholly or in part and to report to the central committee. The expenses of administration are to be shared by the B.M.A. and the Government. Section 14 provides a right of appeal from the Disciplinary Committee to the Medical Council, subject to a further right of appeal to the Supreme Court under section 16.

Social Security.—Part I of the Social Security Amendment Act (No. 38) increased the rates of the maximum monetary benefits by 5s. a week—that is, from £117 to £130 a year, with corresponding increases in the allowable income of beneficiaries. Part II made miscellaneous amendments as to monetary benefits. Part III related to medical services. Section 24 prohibited doctors from practising under the capitation system and the fee for service system at the same time, except with the authority of the Minister of Health. Section 25 prohibited practice under the refund system (under which the patient pays the doctor and gets a refund of the prescribed amount from the Social Security Fund) except where authorized by the B.M.A. and the Minister or in the case of friendly societies. The object was to make new practitioners practise under the fee for service system, under which they are paid direct from the Fund "a

reasonable fee not exceeding 7s. 6d." for each attendance. Section 28 enabled provision to be made for increased benefits for specialist services, as already provided for in the case of maternity benefits. Section 29 required medical practitioners to deliver a signed account one month before commencing proceedings to recover professional charges from a patient, with provision for a reference of the account to a Divisional Disciplinary Committee for its opinion if the defendant so desires.

Coal Mines.—The Coal-mines Amendment Act (No. 10) in Part I made various technical amendments to the Coal Act, 1948 (by which all unworked coal was vested in the Crown). Part II made miscellaneous amendments to the Coal-mines Act, 1925, as to requiring mine managers and other certificated underground officials to have up-to-date first-aid qualifications, as to the inspection of open-cast mines, and authorizing the Crown to purchase, sell, store, and process coal.

Anzac Day.—The Anzac Day Act (No. 15) consolidated the enactments making Anzac Day (April 25, the anniversary of the first landing on Gallipoli in 1915) a holiday. The day is now to commemorate the part taken by New Zealand servicemen and servicewomen in the First and Second World Wars and the South African War, and also those who gave their lives for New Zealand and the British Empire or Commonwealth of Nations. Previously it commemorated only the part taken by New Zealand troops in the First World War.

Fire Services.—The Fire Services Act (No. 18) consolidated the legislation affecting fire brigades, with amendments designed to improve the standard of training and co-ordination of the fire service (especially in connection with serious fires), to improve the financial provision made for small town fire brigades, and to provide an emergency service which will function for rural fire protection in peace-time and form the nucleus of the fire defence of the country in the event of war.

Forests.—The Forests Act (No. 19) consolidated the law relating to the management and protection of forests and forest land. The Minister's title was changed from Commissioner of State Forests to Minister of Forests, and that of the Department from State Forest Service to New Zealand Forest Service. None of the other amendments are of great importance, but the provisions as to the protection of forests against fire were extended and strengthened.

Patriotic and Canteen Funds.—Act No. 20 amended the Patriotic and Canteen Funds Act, 1947, by vesting in the New Zealand Patriotic Fund Board the remaining assets of the War Funds Council established in connection with the First World War, and also certain war funds held by the Joint Council of the Order of St. John and the N.Z. Red Cross Society. The Act also authorized the trustees of any private war fund to transfer their assets to the Patriotic Fund Board.

Co-operative Dairy Companies.—The Co-operative Dairy Companies Act (No. 22) made comprehensive provision for co-operative dairy companies, formerly provided for in Part III of the Dairy Industry Act, 1908. The underlying purpose of the legislation is to modify the general provisions of the Companies Act, 1933, as to the surrender and re-issue of shares, so as to enable genuinely co-operative dairy companies to ensure that their shares are held by the persons who are for the time being supplying milk or cream to the companies' factories, and by no other persons. Provision was made for the registration of such companies under the Act and for prohibiting the use of the word "co-operative" in the names of companies not so registered. Model articles of association were set out in the First Schedule, and registration is conditional on the application of those articles.

War Pensions.—Acts Nos. 25 and 26 increased the maximum rates of war pensions by 5s. a week. Section 4 gave the War Pensions Board a discretion

to grant a pension to any child adopted by a member of the Forces. Section 32 of the War Pensions Act, 1943, had excluded children adopted after a specified date, but (not for the first time) it was found impossible to retain such a definite restriction.

Counties.—The Counties Amendment Act (No. 27) made miscellaneous amendments to the Counties Act, 1920. Part I enabled County Councils to declare areas to be county townships for the purpose of the construction and maintenance of public works and the levying of separate improvement and development rates over the townships to pay for those works. The New Zealand Counties Association Act (No. 28) incorporated the New Zealand Counties Association, previously existing as an unincorporated association of County Councils.

Income Tax.—The Land and Income-tax Amendment Act (No. 29) included provisions for the deduction from a farmer's assessable income of expenditure on trees planted for shelter or to prevent erosion, the spreading over several years of income derived from the sale of timber from farms, or of excess income derived on the sale of livestock for which unduly low standard values were adopted, and for deeming the market price to have been received and paid when trading stock is disposed of for an inadequate consideration.

Licensing.—The Licensing Amendment Act (No. 31) gave a vote to Maori electors in the triennial general poll on the issues of continuance, prohibition, and state control. The Act also restored the simple form of poll on the issue of restoration in no-licence districts, with provision for a subsequent poll on the question of trust control to be held in any case where restoration is carried. In 1948 an amendment provided for the two questions to be voted on in one ballot paper, but this was stated to be unduly confusing to the electors.

The Licensing Trusts Act.—No. 43 provided for the constitution, pursuant to the determination of the electors of no-licence districts where restoration is carried, of Licensing Trusts, with a monopoly to conduct hotels and sell liquor. Part II constituted Licensing Trusts for the districts of Ashburton and Geraldine, where the necessary polls had already been carried. The Invercargill Licensing Trust Act, 1944, and the Masterton Licensing Trust Act, 1947, were not incorporated in the new general Act.

Gaming.—The Gaming Amendment Act (No. 32) made provision for off-course betting on horse races by incorporating a Totalizator Agency Board and providing for the New Zealand Racing Conference and the New Zealand Trotting Conference to submit to the Minister of Internal Affairs for his approval a scheme for the operation by the Board of totalizator agencies. Section 12 authorized the use of the doubles totalizator, and section 15 repealed the prohibition of the publication of dividends. The Broadcasting Service and newspapers accordingly now announce the dividends exactly, instead of using the former vague circumlocutions. Professional tipping (except by newspapers) is still prohibited. The provisions as to permits and licences for raffles were extended, and raffles up to £5 by approved organizations were exempted.

Testamentary Promises.—The Law Reform (Testamentary Promises) Act (No. 33) re-enacted in an amended form the provisions of section 3 of the Law Reform Act, 1944, providing for the enforcement against the estate of a deceased person of promises made by the deceased to make testamentary provision in return for services rendered or to be rendered. The Court is given discretionary power, after considering all the circumstances (including the claims of creditors, beneficiaries and next of kin), to award a reasonable sum or to order the vesting of specific property.

Finance.—Section 6 of the Finance Act (No. 39) afforded a commentary on the shortage of investments for capital by providing that where land is taken by the Crown or sold to the Crown or purchased with Government financial assistance, for the settlement of discharged servicemen, the vendor may elect

to accept the purchase money, with interest, by instalments extending over 10 years. Section 11 of the same Act provided that workers' compensation should be paid at the increased rates provided by Act No. 11, where the employer was the Crown or was insured by the Government Accident Insurance Office, even in the case of accidents occurring before the increased rates became payable. This left other employers and other insurance offices free in theory to continue the former rates for these accidents. No special interest attaches to the other provisions of this Act or the second Finance Act (No. 52).

Wool Labelling.—The Wool Labelling Act (No. 41) required all wool products offered for sale to have labels showing the trade description of the main fabric and the percentage by weight of wool. It was made an offence to sell or offer for sale any product not containing wool with a label containing the word "wool" or any such expression as "synthetic wool," "artificial wool," or "imitation wool"; or to sell or offer for sale any wool product with a label indicating that it contains any fibre or material not present in the product.

Radioactive Substances.—The Radioactive Substances Act (No. 42) established the Radiological Advisory Council, and prohibited any person other than the Minister of Health from manufacturing or dealing in radioactive substances without the Minister's consent, and from using such substances or selling or using irradiating apparatus except pursuant to a licence granted under the Act. Licences are to be renewed annually and to be subject to safety conditions and other restrictions. Section 25 required returns to be made by all persons holding radioactive substances at the commencement of the Act.

Western Samoa.—The Samoa Amendment Act (No. 47) made comprehensive provision for the Western Samoan Public Service on the same lines as the provisions as to the New Zealand Public Service, including non-political control by a Public Service Commissioner.

Statutes Amendment.—Despite continued efforts to exclude all lengthy or important amendments, Act No. 51 amended forty-five different Acts. Sections 7 to 10 made minor changes in the electoral law in view of the impending general election. Section 9 extended the existing authority for candidates to use newspaper advertising so as to include any normal commercial advertising; and section 10 legalized the use of cinematograph films for election purposes. Section 20 provided a simple procedure for obtaining and enforcing a Court order for the guardianship of children, obviating the necessity to apply for a writ of *habeas corpus*. The section also extended to fathers the right given to mothers by section 6 of the Infants Act, 1908, to apply to the Court for the custody of infants. Section 42 made provision for Sunday trading by bookstalls at aerodromes and bus terminals. It was already authorized at railway stations. Section 48 amended section 16 of the Property Law Act, 1908, which enacts the common law rule that a tenancy is a monthly one in the absence of an agreement as to its duration. Judicial doubts having been expressed as to whether the section applied only where *it was proved* that there was no specific agreement, the amendment made it clear that the burden of proof is on the party alleging an agreement providing for a specified term. Section 61 applied the Workers' Compensation Act, 1922, to the employment of a worker in any occupation, whether for the purposes of the employer's trade or business or not, and whether casual or not. Section 62 provided for workers' compensation for damage to a worker's teeth.

V. WESTERN PACIFIC.

1. FIJI.

[*Contributed by* W. G. Bryce, Esq., *Crown Counsel.*]

Twenty-three Ordinances were enacted during the year. Details of the more important are summarized below.

The Court of Appeal Ordinance No. 2 of 1949.—Established a Court of Appeal in

the Colony to hear appeals from decisions of the Supreme Court. The Judges of the Court of Appeal are the Chief Justice, who is the President, the Puisne Judge, the British Judge in the New Hebrides and such other persons as may be appointed by the Governor on the recommendation of the President of the Court. Normally the Court is to consist of three Judges but in certain circumstances may consist of two. In civil matters an appeal lies to the Court as of right from any final order, judgment or decision of a Judge of the Supreme Court, except where the order has been made by consent or refers only to costs; and, by leave of the Judge of first instance or by leave of the Court of Appeal, from interlocutory orders, judgments and decisions. In criminal matters, any person convicted before the Supreme Court may appeal as of right on any ground which involves a question of law alone, or, with the leave of the Court of Appeal or upon the certificate of the trial Judge, on any ground which involves a question of fact alone or on questions of mixed law and fact. A convicted person may appeal against sentence with the leave of the Court of Appeal unless the sentence is one fixed by law. The Court of Appeal allowing an appeal against conviction may either quash the conviction and direct a verdict of acquittal to be entered or, if the interests of justice so require, order a new trial. An appeal may be dismissed notwithstanding that the point raised can be decided in favour of the appellant, if the Court considers that no substantial miscarriage of justice has occurred.

Press Correction Ordinance No. 3 of 1949.—Provides that where in a newspaper, defined in the Ordinance, an item is published which the Governor in Council considers to be false or distorted, the Governor in Council may issue a correcting statement, of limited length and free of comment or opinion, and order it to be published by the newspaper. Failure to publish this correcting statement constitutes an offence. Certain statutory defences are created by the Ordinance.

The Fiji Military Forces Ordinance No. 12 of 1949.—Provides for the establishment, maintenance and regulation of military forces, consisting of a Regular Force, a Territorial Force, a Reserve of Officers, a Reserve and a Special Reserve, for the defence and internal security of the Colony. The Forces are under the command of the Commander appointed by the Governor and subject to the supreme command of the Governor. All officers and members of the Forces must be British subjects and not less than 18 years of age. Officers may be appointed by the Governor either to the Regular or Territorial Forces and hold their commissions during the Governor's pleasure. Members enlist in the Regular or Territorial Forces for an initial period of 3 years, which period may be extended. At the termination of the period of enlistment members of the Regular and Territorial Forces are transferred to the Reserve, if under 45 years of age or, if over, to the Special Reserve. Provision is made for the peace-time training of members of the Territorial Forces, the Reserve of Officers and the Reserve. The Governor has power to disband the Forces. Cadet units may be established by the Governor to consist of boys of between the ages of 14 and 18 having the consent of their parents or guardians. Such units are to be affiliated to but not part of the Forces. Discipline of the Forces is provided for by, among other provisions, the application of the Army Act and by the creation of certain specific military offences. Certain civil immunities are granted. The general government, control and management of the Forces is subject to regulations made under the powers vested by the Ordinance in the Governor. There is no provision for compulsory military training.

The Fiji Police Force Reserve Ordinance No. 17 of 1949.—Provides for the establishment of a Reserve Police Force which may be called out in an emergency. This Force is a voluntary one and its members may receive certain training and instruction. Discharge from the Force may be taken, except when called out on service, by any member giving 3 months' notice. Provision is made for the payment of members of the Force and for the pensions and gratuities to members and their families for injury or death suffered on duty.

2. TONGA.

[*Contributed by* T. E. WINDRUM, ESQ., *H.B.M.'s Agent and Consul.*]

1947

SEVENTEEN laws were enacted in the 1948 Session of the Legislative Assembly of the Kingdom of Tonga.

Customs Duties.—The principal Customs Duties Act provided for the admission, free of duty, of the household furniture of an officer, arriving in the Kingdom to take up an appointment in the Government Service, up to a maximum value of £100. With the post-war increase in the value of all commodities this figure proved to be wholly inadequate. An amending law (No. 14) increases the value thus admissible duty free to £200 and extends the privilege to an officer taking up an appointment in the service of any foreign government.

Tongan Investment Fund.—An earlier law established an Investment Fund of £125,000 but technically made no provision for its increase beyond that figure. An amending Act (No. 13) adds to section 2 thereof the words "not less than" before the words "£125,000," thus making it possible to increase the Fund.

Rhinoceros Beetle.—An amending Act (No. 12) modifies the Tongan version of the principal Act in which, owing to an oversight the words "mei Ha'amoa" meaning "from Samoa" were inadvertently omitted in section 10 thereof.[1]

1948

Finance and Taxation.—Apart from the usual Appropriation Acts there is a Customs Duties (Amendment) Act (No. 6). In 1942 in order to overcome the difficulties created by the delay in receipt by importers of shipping documents, power was given to the Controller of Customs to fix a c.i.f. value on all imports for customs purposes based upon a percentage of the f.o.b. value. With the return to normal conditions and the increase in the use of air mail services this provision is no longer considered necessary, and is repealed by this Act.

A Copra-tax (Amendment) Act (No. 3) increases the sliding scale assessment for Copra-tax under the Copra-tax Act, 1947, from 3d. to 6d. per ton in respect of every ton over 20 tons produced, the object being to tap the steadily increasing returns obtained by large-scale copra producers from the increasing price of copra. The increased taxation thus effected will not affect the small producer, but only the large-scale producer whose income is such that he can be fairly called upon to make an additional contribution towards the ever-increasing expenditure of the Kingdom.

Legislative Assembly.—An amending Act (No. 8) removes an anomaly in the Legislative Assembly (Amendment) Act, 1948. It was found that the requirements thereof as regards the number of votes that a candidate for election to the Legislative Assembly must obtain to avoid losing his deposit operated unfairly. This arose from the fact that when the percentage was fixed at 20 per cent. of the total number of votes polled the fact that each elector had more than one vote was not taken into account. The anomaly is removed by providing for revised percentages.

Diplomatic Privileges.—Before 1947, when the Diplomatic Privileges Act (No. 7) was first introduced as an Ordinance, there was no provision in the Law of Tonga to cover the grant of diplomatic privileges to missions, etc. to Tonga

[1] The above three Acts were, in fact, passed as Ordinances in 1947 and confirmed at the 1947 Session of the Legislative Assembly. Owing to an oversight, however, they were not printed as Acts and consequently not included in the 1947 report on the legislation enacted. This oversight has now been rectified and the Acts are now accordingly given 1947 numbers and have been printed and signed by Her Majesty with retrospective effect to the same date as the rest of the 1947 legislation.

from foreign powers. The new Act empowers Her Majesty in Council to make such grants as are given by His Britannic Majesty's Government in the United Kingdom.

Criminal Law.—There are two Criminal Offences (Amendment) Acts (Nos. 4 and 5). Before the enactment of the first of these the power to inflict a fine in lieu of imprisonment upon conviction for many criminal offences was confined to the Supreme Court. Thus the lower courts frequently were forced by law to impose a sentence of imprisonment where a fine would have been far more appropriate. This Act extends the discretionary powers of the Supreme Court to inflict fines in lieu of imprisonment to the Magistrates' Courts.

The second amending Act deals with the award of corporal punishment. During the war years it was found necessary, owing to the rising number of cases of theft, to empower the courts to award corporal punishment in cases of theft and kindred offences on conviction for a first offence. Previously corporal punishment could only be awarded in respect of second or subsequent offences. This Act repeals the war-time provision and re-introduces the pre-war provisions for corporal punishment only in respect of second or subsequent offences of this nature. In addition, under present arrangements, with no resident Chief Justice in the Kingdom, the requirement that all sentences of corporal punishment be confirmed by the Chief Justice has proved cumbersome and unworkable. This Act, in order to remove this difficulty, transfers the power to confirm sentences of corporal punishment from the Chief Justice to the Cabinet.

Owing to the limited prison facilities available, it has become evident of recent years that certain classes of recalcitrant prisoners could not be adequately cared for within the Kingdom. The provision of more elaborate prison facilities is beyond the financial resources of the Kingdom and, in order to overcome this difficulty, negotiations have been entered into with the Government of Fiji with a view to arranging for the detention of certain classes of prisoners, sentenced by the Tongan Courts, in prison premises under the jurisdiction of the Fiji Government. The Prisoners Removal Act (No. 14) gives Her Majesty in Council the necessary legal powers to order the removal of a Tongan subject, sentenced by the Tongan Courts, to Fiji, there to undergo his sentence of imprisonment under arrangements made by the Fiji Government. This Act is complementary to similar legislation which it is understood the Fiji Government propose to present to the Legislative Assembly of Fiji in the near future.

Mental Patients.—The Lunatics Detention Act, 1948 (No. 9) was first introduced as an Ordinance of 1947. Previously no legislation existed for the legal detention and custody of lunatics. This Act now so provides, subject to the usual safeguards of a certificate of insanity signed independently by two medical practitioners and a detention order signed by the senior judicial officer of the Kingdom. It also provides emergency powers whereby a lunatic in an outlying district can be detained for seven days at a time to enable him to be sent down to Nuku'alofa for proper certification; this emergency period of seven days may be extended by order of a local magistrate for a further seven days at a time, subject to a maximum of twenty-eight days, at the end of which time it is anticipated that it should be possible to bring a lunatic from the remotest parts of the Kingdom to Nuku'alofa.

Wireless Telegraphy.—The Act of 1950 had included no specific provision empowering any officer of the Government to fix charges for the transmission of radio telegrams by law, nor was the exclusive right of transmission of radio telegrams reserved to the Government. Charges had previously been levied on the basis of a mutually-implied contract between the sender and the Government of Tonga as owners of the transmitting station. An amending Act (No. 13) now reserves to the Premier the exclusive right of transmitting and receiving radio telegrams within the Kingdom, and empowers him, subject to the approval of Her Majesty in Council, to fix rates at which such radio telegrams will be transmitted or received.

Shipping.—The Shipping (Amendment) Act relaxes the requirements of the Shipping Act, 1928, for vessels operating solely within one or other of the three island groups of the Kingdom. The principal Act formerly required that any vessel of over 3 tons burden should, on all occasions, be commanded by a certificated master. Owing to the isolated position of many parts of the Kingdom and the difficulty of transporting copra from those remote islands to the main copra-buying centres, which have been established in each of the three island groups, this frequently operated as a hardship. The owner of a vessel was perhaps himself too old to sail, and the members of his family, although born and bred to the sea and perfectly capable of handling vessels of this size in sheltered waters, were not perhaps in possession of a master's certificate. An amending Act (No. 12) now permits registered vessels of over 3 tons burden to be commanded by uncertificated masters provided they do not proceed to sea outside the sheltered waters of the island group to which they belong.

Land Court.—The existing law allows no costs to be awarded to or against the Crown in an action in the Land Court. Thus a defaulting rent-payer could avoid payment of rent for as long as 2 years, at the end of which time he is brought before the Land Court in an action brought by the Minister of Lands seeking his ejectment from the property. It is then usual for the Court to allow a certain number of days' grace before the ejectment, and, providing the defaulter pays his rent within that time, he escapes without any other penalty whatsoever. An amending Act (No. 10) now empowers the Land Court to award costs to the Crown in ejectment cases subject to a maximum of 10s.

Probate.—The Probate (Amendment) Act (No. 11) was previously an Ordinance of 1948. Under the principal Act claims to an intestate estate had to be lodged within 6 months of the deceased's death. Owing to the remoteness of certain parts of the Kingdom and the uncertain nature of communications, experience has shown that the limitation of this period has sometimes operated unfairly. To overcome this, the period within which claims may be made is extended from 6 months to 3 years.

3. NEW HEBRIDES.

[*Contributed by* The Resident Commissioner.]

Land Registration.—The New Hebrides Land Registration (Fees Amendment) Joint Regulation No. 1 of 1949. To amend the table of specific fees established by the New Hebrides Land Registration Regulation No. 3 of 1930.

Postal Tariff.—The New Hebrides Condominium Postal Tariff (Amendment) Joint Regulation No. 2 of 1949. To amend the New Hebrides Condominium "Foreign" Postal Tariff.

Coffee Disease.—The New Hebrides Coffee Disease (Amendment) Joint Regulation No. 3 of 1949. To amend the Coffee Disease Regulation No. 1 of 1925.

Quarantine.—The New Hebrides Quarantine (Amendment) Joint Regulation No. 4 of 1949. To amend the New Hebrides Quarantine Regulation, 1909, as amended by the New Hebrides Quarantine Regulation (Amendment Regulation) 1919, including whooping cough as a communicable disease.

VI. SOUTH AFRICA.

I. UNION OF SOUTH AFRICA.

[*Contributed by* A. E. M. Jansen, *Secretary for Justice.*]

1948

In all some 50 Acts were passed during the 1948 Session. Amongst these were 10 dealing with appropriations of funds for various State services, including

Railways and Harbour Services, and about a dozen others of a financial character, e.g. the annual Income-tax Act, amendments to the Customs laws, including a separate Act to ratify the Geneva General Agreement on Tariffs and Trade and to provide generally for giving effect thereto, an Act to provide for a gold loan to the United Kingdom, provisions for increased rates of pensions and other grants, and an Act to provide for a tax on certain marketable securities in substitution for a previously operative stamp duty.

Of the rest a number were amending Acts designed mainly to eliminate minor defects in existing laws which had been brought to light during the course of administration. Special mention should, however, be made of the Criminal Procedure Amendment Act, the provisions whereof may be briefly summarized. To begin with this Act makes provision for a general right of appeal to the Appellate Division of the Supreme Court of South Africa in all criminal cases, in lieu of the previously existing limited right given by section 104 of the South Africa Act. A prospective appellant must obtain leave to appeal from the trial court, but may, where leave is refused, apply for such leave by petition to the Appellate Division itself. In view of the additional work which is expected to devolve upon the Appellate Division, it has been considered necessary also to amend section 96 of the South Africa Act by providing for the Division to consist of a Chief Justice and so many Judges of Appeal as may be considered necessary, instead of a Chief Justice and four other Judges. This will enable the Appellate Division to sit in two courts simultaneously if occasion arises, as three Judges constitute a quorum.

A further provision amends section 216 of Act 31 of 1917 (the Criminal Procedure and Evidence Act) by including amongst criminal cases in respect of which the Minister of Justice may direct a trial by a Judge without a Jury, any case for a proper understanding of which an expert knowledge of bookkeeping or accounts may be required.

Other provisions relate to—

(a) abolition of the provision for arrest of judgment in a criminal case on the ground that an indictment discloses no offence; and

(b) modifications of the existing provisions relating to special entries and appeals in pursuance thereof, in particular to make it clear that a special entry may be made at the request of the prosecution as well as that of the defence.

As to the change referred to in (a) above, it may be noted that there is no record of the relevant provision ever having been used, whilst the amended provisions now made in regard to appeals should meet all contingencies.

The War Measures Continuation Act and the War Measures Further Continuation Act.—Provided for successive extensions of the period of operation of certain regulations introduced as emergency measures during the war, and which it was thought necessary to maintain in view of continued abnormal conditions. These measures include *inter alia* provisions for the fixing of prices of commodities, the control of building and letting of accommodation, the control of certain materials and the fixing of charges for board.

The Royal Style and Titles Act.—Passed in consequence of the change in the constitutional position of India, which necessitated omission of the reference to India in the King's title.

Apart from these amending Acts the following may be of interest.

The Prince Edward Islands Act.—This Act affirms the Union's sovereignty over the Islands and provides that they form part of the Union and that the Roman Dutch Law and certain Statute laws will apply. Future Union Statutes will not apply unless specially declared to be applicable, but the Governor-General is empowered to legislate by proclamation which will, however, be valid only if not disapproved by Parliament.

The Treaties of Peace Act.—Empowers the Governor-General to make regulations for giving effect to the peace treaties with Bulgaria, Finland, Hungary, Italy and Rumania, as also any treaty which may be entered into with any country with which the Union is at war at the commencement of the Act. The regulations must, however, be laid upon the Tables of both Houses of Parliament and lapse if they are not specifically approved.

The Powers and Privileges of Provincial Councils Act.—This Act substitutes for section 77 of the South Africa Act a new section ensuring freedom of speech and immunity from legal proceedings for provincial councillors. It also makes general provision in regard to the powers of provincial councils and committees thereof, more or less on the same lines as in the case of the Union Parliament.

The Atomic Energy Act.—Provides for the control of atomic energy and of materials from which it may be generated. The sole right to search or prospect or mine for fissionable materials or produce atomic energy is vested in the State which for that purpose functions through an Atomic Energy Board. The Minister charged with the administration of the Act may require any person carrying on mining operations on land where fissionable materials are found, to extract such materials on his behalf or, alternatively, may himself cause such materials to be extracted, and may in the process make use of any machinery or equipment on the land and interfere in any manner with other mining operations. Special provision is made to ensure the secrecy of inventions relating to atomic energy and to enable the Atomic Energy Board to take over any such inventions.

The penalties for contravention of certain provisions of the Act may be as high as a fine of £5,000 or imprisonment for 20 years or both fine and imprisonment.

The Transport Co-ordination Act.—As its name indicates, this is a co-ordinating measure, the main object of which is to centralize the control over transport in the Union. It provides for the establishment of a National Transport Commission which is charged with the duty of co-ordinating the various transport services, and of performing the functions of the Central Road Transportation Board, under Act 39 of 1930, the National Roads Board under Act 42 of 1935, and the Civil Aviation Council under Act 16 of 1923.

The Special Schools Act.—This Act provides for the establishment and maintenance of special schools and homes for deviate children and of clinics for mental examination and treatment of children suffering from intellectual, mental or behavioural disabilities, and for the grant of State subsidies towards the conduct of private special schools and clinics.

The University of Natal (Private) Act created a new university in the place of the former Natal University College which previously was one of the constituent colleges of the University of South Africa.

1949

Of the laws passed during 1949 there were nine providing for the appropriation of funds for various State (including Railways and Harbours) services and six dealing with other financial matters, e.g. Income-tax, Customs laws amendments and similar matters, as also an Act to consolidate and amend the laws in force in the various provinces of the Union relating to payment of transfer duties on fixed property. Of the remaining forty-four the majority were as usual concerned with amendments to existing legislation which experience had shown to be necessary. Some of the more important of these should, however, be briefly referred to.

South-West Africa Affairs Amendment Act.—This Act has brought about several important constitutional changes in so far as the territory of South-West Africa is concerned. Apart from according the territory direct representation in both legislative chambers of the Union Parliament, it also introduced considerable changes in both the legislative and executive organs of the territory itself. The

representation in the Union Parliament consists of six elected representatives in the House of Assembly and four in the Senate, two of the latter being nominated by the Governor-General, whilst the other two are to be elected jointly by the six representatives in the House of Assembly and the eighteen members of the Legislative Assembly of the territory. Elections are to be conducted in the same manner as in the Union and for that purpose the Electoral Act of the Union applies subject to the necessary modifications. In so far as the Legislative Assembly of the territory is concerned, all members will in future be elected, instead of one-third being nominated by the Governor-General as heretofore. Moreover, the members of the Assembly will hold office for the full period of 5 years, the provision for dissolution of the Assembly otherwise than by effluxion of time having been abolished. The previously existing Advisory Council, which consisted of the Administrator and three persons appointed by him with the approval of the Governor-General, has also been abolished, and its functions assigned to the Executive Committee consisting as in the past of the Administrator and four members of the Legislative Assembly elected by that body. The territory is therefore now on exactly the same footing as a province of the Union in so far as the constitution of its legislative and executive organs and representation in the Union Parliament are concerned, except that representation in the Union Parliament is on a somewhat more generous basis if regard is had to the population of the territory, and that its own Legislative Assembly retains considerably wider powers of legislation than are conceded to provincial councils. In addition special provision is made that Union laws exclusive of Customs laws, which impose burdens on the people, will not apply in the territory except with the consent of its Legislative Assembly.

General Law Amendment Act.—The principal amendments introduced by this Act relate to the constitution of the various provincial divisions of the Supreme Court of South Africa and the holding of circuit courts. Whereas formerly there were limitations on the number of Judges of each of the provincial divisions, it is now provided that every such division will consist of a Judge President and so many Judges as the Governor-General may deem necessary. Similar provision has been made as regards the Eastern Districts Local Division of the Supreme Court and the Natal Native High Court, whilst the Griqualand West Local Division of the Supreme Court may in future have more than one Judge. For the purpose of the holding of circuit courts, every Judge President, including the Judge President of the Eastern Districts Local Division, is empowered to divide the area under the jurisdiction of his division into two or more circuit districts and to appoint times for the holding of circuit courts in those districts, subject to the condition that at least two circuit courts must be held in each district every year.

Defence Amendment Act.—A number of minor amendments have been made in the Defence Act, including *inter alia* the omission of references to the Coast Garrison Force and the Royal Naval Volunteer Reserve, both of which had previously been incorporated in the Active Citizen Force. The age up to which citizens are liable to render personal service in time of war has been raised from 60 to 65 years, and the maximum age for enlistment in the Active Citizen Force from 45 to 55 years, whilst any citizen may now be required to commence peace training at any time between his eighteenth and twenty-first year, the latter having previously been the earliest age at which training could be enforced. Citizens who are liable to service in time of war may enter for temporary whole-time peace training in the Active Citizen Force for a period of 2 years and such training serves to exempt from compulsory peace training where liability therefor exists. Similar exemption is also conferred by enrolment for whole-time service (not being temporary service) in the Active Citizen Force which is, however, open only to citizens liable to undergo peace training. In addition provision is made for the establishment of auxiliary services in which citizens may be enrolled to serve

as guards or watchmen or to perform other non-combatant duties. The Minister of Defence is empowered in time of emergency to call up for service the whole or any portion of the defence forces of the Union, but any order issued in this regard is valid for not more than 4 days. If service for a longer period is necessary, a Governor-General's proclamation is required.

Admission of Advocates Amendment Act.—This Act remedies a defect in the existing law by providing that where an advocate has been suspended or removed from the roll in any division of the Supreme Court, the same consequences follow as regards all other divisions in which he may have been admitted, and also as regards admission to any other division.

Financial Relations Amendment Act.—Two amendments have been made as regards the matters in respect of which provincial councils are empowered to legislate, viz.—

(a) the establishment of libraries; and
(b) the prohibition of dog racing.

Previously provincial councils had power only to deal with the administration of libraries, whilst their powers of control as to racing did not include the power to prohibit any form of racing.

Irrigation Amendment Act.—The principal object of this Act is to prevent the accumulation of excessive holdings of land under irrigation by private interest. In this connection it may be mentioned that one of the primary objects of Government irrigation schemes is to provide small holdings under irrigation to those in need of assistance at reasonable cost.

Unemployment Insurance Amendment Act.—This Act excludes from liability for contributions towards the Unemployment Insurance Fund, and consequently from the right to claim unemployment benefits—

(a) members of approved pension or provident funds which are administered by their employer or to which he contributes;
(b) seasonal workers, subject to the condition that those normally employed for not less than 8 months every year may be allowed to contribute;
(c) persons employed for less than 8 hours in any one week;
(d) any class of employees or persons employed in any class of business or in any area or in certain specified classes of work under the Defence Act, 1912, or any law relating to defence, exempted by the Minister of Labour by notice in the *Gazette*.

Other amendments relate to changes in the rates and conditions of contributions and the benefits to be paid.

As regards legislation not in the nature of direct amendments to existing laws, several important measures may be mentioned, as indicated below.

South African Citizenship Act.—Before the passing of this Act, the status of South African citizen as such did not exist. The only distinction was between aliens and British subjects, determined according to a basis common to all countries belonging to the Commonwealth of Nations, as set out in so far as the Union was concerned in Act 18 of 1926. It is true that Act No. 40 of 1927 introduced the status of Union national, but the essential qualification was still that of being a British subject. The new Act approaches the position from the opposite angle, providing for South African citizenship without the qualification of being a British subject, which has fallen away.

The Act divides South African citizens into four classes, according to whether they are citizens by birth, descent, registration or naturalization, and it will be convenient to deal separately with each class, leaving out of account the exceptional cases. In the summary below the dates July 1, 1926 and September 2, 1949, refer respectively to the commencement of Act 18 of 1926, and of the new Act, whilst references to the Union include references to the territory of South-West Africa, except in relation to persons born before the commencement of the new Act.

South African citizens by birth are—

(a) persons born in the Union who, on September 2, 1949, were Union nationals in terms of Act 40 of 1927, or would, but for the provisions of Act 35 of 1942 (which denaturalized automatically naturalized Germans in the territory of South-West Africa) have been Union nationals, including women who ceased to be Union nationals solely by reason of marriage;

(b) persons born in the territory after July 1, 1926, and before September 2, 1949, who on the latter date were domiciled in the Union or the territory;

(c) persons, other than prohibited immigrants, born in the Union after September 2, 1949, excluding any person whose father at the time of his birth was—

(i) a prohibited immigrant; or

(ii) a person, not being a South African citizen, enjoying diplomatic immunity; or

(iii) an alien enemy, if either the birth occurred at a place under enemy occupation or the father had no right of permanent residence in the Union and was interned or detained in custody, unless the mother was a citizen.

A person who, before the commencement of the new Act, ceased to be a Union national and thereupon again acquired union nationality, or who after such commencement ceases to be a South African citizen and again becomes a citizen, is not a citizen by birth.

Citizens by descent include persons born outside the Union, and the territory of South-West Africa—

(a) before September 2, 1949, if at the time of birth the father was a British subject and was born in the Union or had acquired British nationality by naturalization or by virtue of the annexation of the territories of the South African Republic (i.e. Transvaal) or the Republic of the Orange Free State or was in the service of the Union Government or was domiciled in the Union or the territory;

(b) on or after September 2, 1949, if at the time of birth the father was a citizen by birth, registration or naturalization or (in the case of a father born in South-West Africa) descent, or was in the service of the Union Government or was ordinarily resident in the Union, and the birth was registered within a year, or such longer period as the Minister concerned may allow, at a Union consulate or any other place which may be prescribed.

There is an exception in the case of persons referred to in paragraph (b) who are born in a country belonging to the Commonwealth of Nations, where the father is not in the service of the Union Government or of a person resident or body established in the Union, and is not ordinarily resident in the Union, if by the law of the country concerned any such person becomes a citizen of that country. A citizen by descent who loses his citizenship and subsequently regains it, becomes a citizen by registration or naturalization according to circumstances.

South African citizenship by registration is open to any citizen of a Commonwealth country or the Republic of Ireland who is of good character, and—

(a) is not a minor;

(b) has been lawfully admitted to the Union for permanent residence therein;

(c) is ordinarily resident in the Union and has been resident therein for the immediately preceding period of 12 months and 4 out of the immediately preceding 6 years;

(d) intends to reside in the Union or to enter or remain in the service of

the Government or of a person resident or body established in the Union or an international organization of which the Union is a member;

(e) can read and write one of the official languages of the Union or, if he has been resident therein for not less than 20 years, can read and speak one of such languages; and

(f) has an adequate knowledge of the responsibilities and privileges of South African citizenship.

In addition, the Minister of the Interior may register as a citizen any minor child on the application of his parent or guardian if the father of such child is a citizen by birth, descent or registration or a citizen of a Commonwealth country, but not, apparently, of the Republic of Ireland, probably due to an oversight. The requirements as to 4 years residence during the period of 6 years preceding the application for registration, and as regards knowledge of one of the official languages may be waived in the case of persons who were previously South African citizens or Union nationals. Registration may also be granted to a married woman, not being an alien, who is married to a citizen, has been lawfully admitted to the Union for permanent residence therein and has resided therein with her husband for not less than 2 years. Every person over 14 years must within 3 months after notification of approval of his application to be registered take an oath of allegiance.

Citizenship by naturalization may be granted to an alien under the same circumstances as in the case of citizenship by registration, except that—

(a) there must be proof of residence in the Union for a period of 5 out of the 7 years preceding the date of application;

(b) notice of intention to apply must have been lodged in the office of the Minister not less than 1 year and not more than 6 years before the date of the application; and

(c) in the case of a married woman the period of residence in the Union is 3 years.

Special provision is made in the Act in regard to married women, the effect of which is that their position is not affected by the marriage. This is of importance in some cases in so far as children are concerned (see e.g. paragraph (c) (iii) above regarding persons who are South African citizens by birth).

Citizenship is lost by acquiring the citizenship of another country, except in the case of a minor, in consequence of a formal act other than marriage, or by renunciation or by being deprived of South African citizenship on certain specified grounds or by voluntary residence outside the Union for 7 years or longer, unless an intention to remain a South African citizen is registered at a Union consulate or other prescribed place once every 12 months. Citizenship by birth or descent is not, however, lost by residence outside the Union, nor can any person be deprived of such citizenship. Special provision is made in the case of minors and married women becoming citizens of another country in consequence of minority or marriage, minors who acquire South African citizenship during minority and certain other persons.

The Minister concerned may before depriving any person of his South African citizenship cause an enquiry to be held by a provincial division of the Supreme Court or by a committee presided over by a Judge or an ex-Judge of that Court. In some cases an enquiry is compulsory.

Air Services Act.—A prohibition is imposed, under penalty of £500 for a first and £1,000 for any subsequent offence, on the use of an aircraft for the provision of any air service, including any transport service, except under licence from the National Transport Commission established under Act 44 of 1948 (as to which see above). Exceptions are made in respect of international air transport services (to be prescribed by regulation) operated by an air line of another State in pursuance of a bilateral agreement with the Union, whilst special exemption may also be granted in the case of visiting aircraft of another State not operating such a prescribed service.

An application for a licence must show the name, address and nationality of the applicant, particulars of the proposed service, the capital available to finance it, the organization contemplated, including the number and types of aircraft to be used, the facilities for maintenance and repair services, the personnel to be employed, routes to be followed and the classes of traffic to be conveyed, the time tables for the service and the proposed tariff of charges. Notice of an application must be published and a public sitting must be held to hear the applicant and any objectors to the grant of a licence. The Commission must in considering applications have regard to the need for any proposed service, the necessity for co-ordination and development of air and other transport services and for preventing uneconomic overlapping of services, and to the public interest generally.

Undue Restraint of Trade Act.—This Act was designed in the main to counteract the tendency amongst certain groups of retail distributors to endeavour by threatened withdrawal of custom to pursuade wholesale suppliers to limit supplies to members of the group. It requires a wholesaler under certain penalties to supply any applicant with a commodity on the same terms as those on which customers generally are supplied, subject to the purchase of the quantities usually supplied to distributors and satisfactory arrangements as to payment of the purchase price and such other conditions as may be prescribed. Suppliers may also be required to supply any customary accessory services, and may refuse supplies to persons who do not comply with prescribed requirements, e.g. as to the provision of services normally expected of distributors of the commodity affected. An exception is made in the case where any person acts as sole agent for the sale of a particular commodity. The Act is largely a revised version of the Unlawful Determination of Prices Act, 1931, which it repeals. The principal defects in the latter were that it did not provide for accessories to be supplied by wholesalers or for customary services to be given by distributors in conjunction with the sale of commodities.

Work Colonies Act.—This Act which has been substituted for the earlier Act 20 of 1927 contains comprehensive provisions for dealing with persons who through their own misconduct or wilful default are unable or neglect to provide for themselves or their dependents or who squander their means by gambling or otherwise or habitually beg or are addicted to drink or drugs or are generally idle or dissolute, including persons who are convicted of crimes (other than murder, treason or rape) where the trial court is of opinion that treatment in an institution established under the Act would be beneficial. For this purpose provision is made for the establishment of work colonies and retreats where such persons may be trained and kept away from undesirable influences, and of hostels to serve as homes for those released in order to afford them an opportunity of rehabilitating themselves. Private retreats and hostels may be conducted with the sanction of the authorities concerned and may receive State subsidies. Provision is made for voluntary admission to a work colony or retreat.

National Finance Corporation Act.—A corporation is established with a capital of £1,000,000, to be subscribed by building societies, banks, insurance companies, mining houses and other financial institutions, and the South African Reserve Bank which must take up any balance not subscribed. The object of the Corporation is to provide short-term investment facilities, preference being given to subscribers.

Sports Pools Act.—This Act prohibits schemes under which prizes are offered in connection with forecasts of the results of sporting events or any series of sporting events.

Prohibition of Mixed Marriages Act.—Marriages between parties of whom one is a European and the other a non-European are prohibited. For this purpose a person is deemed to be a European or a non-European as determined by reference to his appearance, unless the contrary is proved. A marriage contrary to the terms

of the Act is valid if solemnized in good faith where neither party, nor any person acting in collusion with a party, has made any false statement relating to the status of either party, provided any party to the marriage professing to be a European or a non-European, according to the circumstances, is in appearance obviously what he professes to be or habitually consorts with persons of the class to which he professes to belong. Children of a marriage solemnized in good faith by a marriage officer, born or conceived before the marriage has been declared invalid by a competent Court, are legitimate.

University of the Orange Free State (Private) Act and Rhodes University (Private) Act.—In terms of these Acts the Orange Free State and Rhodes University College have become independent universities. The only remaining constituent college of the University of South Africa is now the "Potchefstroomse Universiteitskollege vir Christelike Hoër Onderwys" (Potchefstroom University College for Christian Higher Education).

2. CAPE PROVINCE.

[*Contributed by* A. J. Pienaar, K.C.]

The two Sessions of the Cape Provincial Council in 1949 produced 20 Ordinances. All but 3 consisted of the annual patching of existing enactments or of purely local Ordinances and of the usual appropriation Ordinances. Those which may be of sufficient general interest to warrant comment are No. 7, Land Expropriation (Provincial Administration) Amendment Ordinance; No. 10, Cape Provincial Library Service; and No. 12, Roads.

Land Appropriation.—The parent Ordinance is No. 9 of 1939, section 2, which empowers the Administrator to expropriate land whenever he is satisfied that it is required for educational purposes (defined in s. 1) other than higher education (which falls under the Union Government) or for any other purpose or duty which the Administration is by law authorized or required to perform or discharge. The main purpose of this Ordinance was to enable the Administration to acquire land for education. It must be noted that more than half the annual appropriation for expenditure is for education, both European and Native. Section 3 provided that, when the Administrator intended to expropriate land, he had to give notice to the owner, and the following sections provided for a period allowed for agreement as to compensation, settlement (if no agreement) by arbitration, costs thereof and other necessary consequential provisions. Apparently difficulty has arisen through the wording of section 3, which requires notice when the Administrator intends to expropriate but does not anywhere indicate when, if ever, expropriation occurs. To rectify this, section 3 has been replaced by another which provides "that when the Administrator has decided to expropriate, he shall give notice, etc." In other words the operation of the machinery depends on the Administrator's decision and not merely on his intention. This alteration in section 3 has necessitated consequential amendments which No. 7 affects in the parent Ordinance.

Cape Provincial Library Service.—This entirely original measure is an attempt by the State to provide more and better facilities for reading by the public in the rural areas of the Province. At present in every one of the larger municipalities and in many of the smaller towns there are one or more public libraries open to the public during certain hours, from which, for a small subscription, books may be taken on loan. Grants for these are made by the local authority concerned and from Provincial revenue. This Ordinance establishes what is called a free Provincial Library Service. The Administrator may by proclamation divide the Province into what will be known as regional library areas and, after consultation with the local authorities concerned, introduce the Service into any such areas. On such introduction he may establish a regional library

nd appoint a regional librarian, and after consultation with the Committee of ny existing public library, take over any existing public library on agreed terms, nd he may in the area establish public libraries and branches. A board, to e called the Cape Provincial Library Board, is to be established consisting of ight members, one of whom shall be the Superintendent-General of Education; he others are to be appointed by the Administrator, one representing the Divisional Councils, one the Municipalities and two of the others must be trained qualified librarians. The duties of the Board will be to administer the Service, leal with representations from local committees, receive and administer donations nd bequests and examine the financial and statistical statements of libraries in he Service and advise the Administrator thereon. The Administrator is to appoint a provincial library organizer, who will be the secretary of the Board. The Administrator will also appoint local librarians and other officials and employees, and prescribe their duties, emoluments and conditions of service. Every library in the Service will have a Committee constituted and appointed n manner prescribed by regulation. Such Committee will administer the library n accordance with the policy approved by the Administrator; it may make recommendations to him and to the regional librarian and must report annually. Where an existing library is taken over, this Committee becomes its legal successor. The Administrator is given power to acquire land, buildings, books and equipment for the Service. As usual, the Administrator is given power to make regulations to provide for details of administration of the Service. Any municipal area of more than 15,000 Europeans, or more than 50,000 Europeans and non-Europeans combined, falls outside the provisions of the Ordinance. Provision is however made for subsidizing libraries in such urban areas. Under both Service libraries and municipal libraries separate facilities must be provided for Europeans and non-Europeans. It will be interesting to observe the results of this new State enterprise. It will, of course, be financed almost entirely from Provincial revenue. It may certainly be anticipated that this new Service will bring into being a horde of officials whose emoluments and pensions will have to be found by the tax-payer.

Roads Ordinance.—This Ordinance deserves a more detailed review than space will permit. The subject is so large that only a few of its main features can be described. The principal, i.e. parent Ordinance, No. 13 of 1917, was a consolidation of the laws dealing with Divisional Councils (i.e. County Councils) and Roads, an inheritance from the English system of local government which has survived in no other province in South Africa. This Ordinance, while maintaining the system, makes provision for very considerable contributions by way of subsidy to the local authorities from Provincial revenue for the construction, reconstruction, maintenance and repair of roads. While it amends a number of existing Ordinances, it is largely a consolidating measure and repeals ten Ordinances wholly. The main feature of the measure is the scheme by which the costs of roads, according to the different grades of roads and the circumstances of the authorities responsible for them. National roads fall outside the scope of the Ordinance; they are financed from Union revenue. Under the old laws there were "proclaimed roads," "main roads" and "divisional roads"; now there will be "permanently-surfaced," "proclaimed," "divisional" and "trunk" roads. From a legal point of view the re-classification is immaterial. The local authorities remain responsible and liable—but the new categories are important for subsidy purposes. To form a picture of the varying economic conditions of the local authorities it must be noted that the thinly-populated areas, while having the smallest number of rate-payers, had the greatest mileage of roads to maintain. Those which fall under the category of main roads are used by the general public and become too great a burden on the local rate-payer. In order to find an equitable system of financing the different categories of roads, these have been put into three classes, viz., trunk roads, main roads and divisional roads, and the local authorities have been

divided into divisional councils and municipalities, and the former into six groups. In the Schedule to the Ordinance the main roads are described and the groups into which the authorities responsible for them are divided are set out, and the percentage of subsidy, varying from 90 to 20, to expenditure is set out.

Thus if divisional council "X" falls under group "b" it is laid down that for trunk roads its subsidy is 85 per cent., 80 per cent. for main roads and 60 per cent. for divisional roads. The same system is followed in respect of municipal roads. Local authorities are required to submit estimates of expenditure by September 30 in each year. Expenditure also is classified ("normal expenditure" and several other categories, such as extraordinary, emergency, permanently-surfaced, etc.) and the Administrator may allow or disallow percentages of such expenditure. The Ordinance, apart from the advantage of bringing into one law provisions dispersed over a number of other laws, provides an elastic system of meeting in an equitable manner the diverse requirements of local authorities for the purpose of maintaining and improving the roads of the Province. As may be expected, the Schedules describing the Roads fill over 100 pages of the Statute Book.

3. ORANGE FREE STATE.

[*Contributed by* Adv. F. W. A. Gray, B.A., LL.B.]

Eleven Ordinances were passed by the Orange Free State Provincial Council during the year 1949. Two alone, Ordinances 2 and 3, present features of interest, the former, as giving Dutch Reformed Church congregations power to control appointments of school teachers and the latter as being a partial ban on the registration of motor vehicles fitted with left-side steering apparatus. Of the remaining Ordinances three are Appropriated Ordinances, Ordinance 5 is a measure providing for the payment of allowances to persons in receipt of certain civil pensions, Ordinance 7 consolidates and amends the law relating to the control of the issue of trade and business licences, and Ordinances 6, 8, 9 and 11 are Ordinances containing amendments of a purely routine character. The sections of Ordinances 2 and 3, relating to the features referred to, are set out *in extenso* below.

Section 1 of Ordinance 2 of 1949, amends the Education Laws Consolidation Ordinance, 1930. The section reads as follows: "Notwithstanding anything in this chapter contained, the Administrator may from time to time by proclamation divide the Province into School Board Districts in such a way that a district shall consist of the area of one or more Dutch Reformed congregations and he may determine the number of members for each such district; provided that where a district is composed of the area of more than one Dutch Reformed congregation the Administrator may, with due regard to the number of schools and scholars in each such area, allocate a number of the School Board members, as determined for the district, to each area, composing such district; provided further, that the election of the School Board members allocated to an area shall *mutatis mutandis* be conducted in accordance with section *nine;* provided further, however, that where the School Board Secretary is unable to attend such election, he shall appoint a substitute to act in his place."

Section 1 of Ordinance 3 of 1949 amends the Motor Vehicle Ordinance, 1941. The section reads as follows: "The owner of every motor vehicle shall, within the period prescribed by paragraph (b) hereof, register it at the office of the registering authority within whose area of jurisdiction he resides, provided that a registering authority shall not register a motor vehicle which is fitted with a steering apparatus on the left side, except under the authority of a permit issued

by the Administrator and in accordance with such conditions (if any) as the Administrator may from time to time by Regulations prescribe."

It is hardly necessary to add that the rule of the road in South Africa is that vehicles drive on the left-hand side of the road.

4. NORTHERN RHODESIA.

[*Contributed by* M. W. Dennison, Esq., M.C., *Crown Counsel.*]

Forty-six Ordinances were passed during the year 1949. The majority of these were amending measures of local interest. Of the remainder the more important were:

Mental Disorders.—No. 21 repealed the Lunacy Ordinance and, apart from amending the terminology in the light of modern medical practice, it permits administrative improvements in adjudication and the detention and release of patients. It was modelled closely on the Mental Disorders Act of Southern Rhodesia, where most of the patients from Northern Rhodesia are detained for treatment.

Industrial Organization and Conciliation.—The enactment of Nos. 23 and 24 brought the law of the Territory into substantial conformity with that of the United Kingdom in the matter of trade unions, trade disputes and industrial conciliation.

Rhodesia Railways Ordinance.—No. 25 gives local effect to an agreement reached by the Governments of Southern Rhodesia, Northern Rhodesia and the Bechuanaland Protectorate by which the railways operated in the three territories by the Rhodesia Railways Limited will henceforth be operated by a statutory body, whose general policy will be directed by the Governments of the three territories working together. The disparity between the laws of the three participant territories as regards trade unions and trade disputes has been dealt with by a device which may be of interest to the draftsman:

"33. (1) For the recognition of trade unions of employees of the railways, for the prevention and settlement of disputes between the railways and their employees, for the regulation by agreement and arbitration of conditions of employment and other matters of mutual interest to the railways and their employees and for other purposes connected therewith, the provisions of the Schedule to this Ordinance shall apply to the railways and to their undertakings within the territory.

"(2) The law in force in the territory relating to trade unions and trade disputes shall apply to the railways and to persons employed by the railways and to undertakings carried on by the railways except in respect of matters which are specifically provided for in the Schedule to this Ordinance."

VII. EAST AFRICA.

1. KENYA.

[*Contributed by* P. E. H. Pike, Esq., *Legal Draftsman.*]

1948

During the year 1948 95 Ordinances were passed. A summary of the more important of these is given below.

The Seeds Ordinance.—Provides for the improvement of the standard of the internal seed supplies of the Colony, protects seed buyers from being supplied with seed of unknown origin and quality and seeks to build up a reputable

export trade of seeds, which experience has shown can be satisfactorily produced in the Colony. A number of the provisions of the measure are based on the United Kingdom Seeds Act, 1920.

The King's African Rifles (Amendment) Ordinance.—The object of this Ordinance is to enable men to be enlisted in the East African Construction Force and the King's African Rifles Guard Companies, new units which were formed in connection with the Stores-holding project at Mackinnon Road. The measure also enables payments to be made from the Military Fines Fund to the East Africa Army Benevolent Fund.

The Rebate and Refund of Customs and Excise Duties Ordinance.—Rebates of excise duty and refunds of customs duty in respect of dutiable and excisable articles were originally granted to the N.A.A.F.I.—E.F.I. and other Service organizations by Defence Regulations. Those regulations expired early in 1946, and the Temporary Rebate and Refund of Customs and Excise Duties Ordinance, 1946 (No. 21 of 1946), was enacted so as to continue the concessions in force. That Ordinance, however, expired on December 31, 1946. It was considered desirable that the concessions should remain in force indefinitely with effect from January 1, 1947. The measure, therefore, re-enacts the provisions of the Ordinance referred to above.

The Immigration (Control) Ordinance.—The Immigration Restriction Ordinance (Chapter 62 of the Revised Edition, 1926) was considered unsatisfactory for the reason that it did not enable immigration into the Colony to be properly regulated. It was also considered that, unless a greater measure of control was introduced, a large number of persons already resident in the Colony would find themselves out of employment owing to the influx of new immigrants. This measure makes it necessary for persons desiring to enter the Colony to apply for a permit to do so. There are various classes of permits and these embrace permanent residents, persons intending to engage in agriculture, mining, trade, manufacture or who are members of professions or who have accepted employment in the Colony. The Ordinance also provides for prohibiting certain people, such as destitute persons, persons suffering from mental disease, prostitutes and persons who in consequence of information received from a reliable source are deemed by the Principal Immigration Officer, whose decision must be confirmed by the Governor in Council, to be undesirable immigrants, from entering the Colony. The Governor has power to deport a prohibited immigrant. A national of a State that was at war with His Majesty at any time during the years 1939 to 1947 and which has not since then become a member of the United Nations may not enter the Colony without a permit from the authorities.

The Sugar Consumption Tax Ordinance.—This measure re-imposed a tax of 1 cent per pound on every pound of sugar to be consumed in the Colony. This tax was first imposed in 1943 under the War Taxation (Sugar Consumption Tax) Ordinance, 1943 (No. 25 of 1943), but that Ordinance was repealed in 1946. In view of present-day costs of production it was considered that the sugar industry of the Colony required financial assistance. The money derived from the tax imposed by this Ordinance will be used to subsidize that industry.

The Roads Protection (Amendment) Ordinance.—Under section 4 of the principal Ordinance, the Road Protection Ordinance, 1924, the Director of Public Works had power: (a) to suspend all traffic on any road for a period not exceeding 1 month; (b) to authorize the placing of notices and barriers to convey to the public adequate intimation of such suspension; and (c) to fix the times during which any particular kind of traffic may use any road. Speed was considered essential in closing roads during the wet weather; but the fact that the Director of Public Works had to make the order and had no power to delegate his functions under the section to District Councils and other persons and thus enable immediate action to be taken, sometimes resulted in serious damage to the roads.

This Ordinance permits the Director of Public Works to authorize other persons to exercise his powers under the section and thus enables quicker action to be taken.

The Native Authority (Amendment) Ordinance.—Paragraph (i) of section 8 of the Native Authority Ordinance, 1937, conferred powers upon a headman to prohibit natives from holding or attending any meeting or assembly within the local limits of his jurisdiction which, in his opinion, might tend to be subversive of peace and good order. During a debate in the Legislative Council the Government undertook to ensure that the powers conferred by that paragraph would not continue to be exercised and that an early opportunity would be taken to repeal the provision. The Native Authority (Amendment) Ordinance, 1948, gives effect to that undertaking.

The Emergency Powers Ordinance.—This measure enables the Governor in Council, if at any time it appears to him that any action has been taken or is immediately threatened by any person or body of persons of such a nature as to be calculated, by interfering, *inter alia*, with the supply and distribution of food, water, fuel or light, to deprive the community, or any substantial portion of the community, of the essentials of life, to declare, by proclamation, a state of emergency. Any such proclamation is required to be communicated, as soon as may be, to the Legislative Council. Section 3 enables the Governor in Council, when a state of emergency has been declared, to make regulations for securing the essentials of life to the community and for the preservation of peace and good order. Such regulations are to be laid before the Legislative Council as soon as may be after they are made, and shall not continue in force after the expiration of seven days from the time that they are so laid unless a resolution is passed by the Council providing for their continuance.

The Flax (Amendment) Ordinance.—Under the provisions of the principal Ordinance (No. 49 of 1939), the Flax Board consisted of the Director of Agriculture or his nominee, one member to be appointed by the Governor and certain licensed flax growers elected to the Board at statutory meetings which were required to be called in the first half of each calendar year. Since it was found to be impracticable to elect the Board in the manner prescribed, the Flax (Amendment) Ordinance, 1948, amends the principal Ordinance so as to enable members of the Board, other than the Director of Agriculture, to be appointed by the Member for Agriculture on the advice of the Director of Agriculture.

The Matrimonial Causes (Amendment) Ordinance.—In England the period, between the making of a decree nisi and the decree absolute in suits for the dissolution or nullity of marriage, has been reduced to six weeks. This change in the law was effected by a General Order made under section 183 (1) of the Supreme Court of Judicature (Consolidation) Act, 1925. That section corresponds with section 14 of the Kenya Matrimonial Causes Ordinance, 1939 (No. 33 of 1939). Power, therefore, exists under that section for the Supreme Court by a general order, or a special order in any particular case, to fix a shorter time than the six months prescribed in the Ordinance. The difficulty in Kenya was that under section 35 of the principal Ordinance any such decree or order made by the Court could be appealed from as if it were a decree or order made by the Court in the exercise of its civil jurisdiction. The effect of the provision was that an appeal could be made to the Court of Appeal for Eastern Africa from a decree nisi within ninety days after the making of the decree. In order to bring Kenya legislation into line with the law in England it became necessary to amend section 35 so as to provide that a decree nisi in a suit for the dissolution or nullity of marriage could be appealed from within a period shorter than the six weeks. This Ordinance makes it possible for the Supreme Court to make a general order by which decrees nisi can be made absolute within six weeks, or within any time after the expiration of the thirty days which the Ordinance lays down shall be the time within which an appeal must be filed.

with those opinions. The new section gives effect to this policy. Section 8 inserts a new section in the principal Ordinance which provides, *inter alia,* that any person who fails to comply with any order or direction given by a Provincial Commissioner reserving grazing rights, prohibiting the use by any tribesman of any specified grazing or area of water or directing the removal of any village situate in close proximity to the frontier of the Colony, shall be guilty of an offence and may be arrested without a warrant by any police officer or tribal police officer. It also provides that any police officer or tribal police officer may seize such cattle of the person failing to comply with any such order or direction, as he considers will be of equal value to any fine which may be inflicted on such person in connection with his offence. Section 11 amends section 23 of the principal Ordinance which provides that any enquiry under the Ordinance shall be conducted in accordance with the law relating to criminal procedure. This has been found to be impracticable as it is far too restrictive and, in the interests of justice, it was considered that it should be made possible for an enquiry to be conducted in accordance with native law and custom. It provides further that if an arbitral tribunal admits any evidence at an enquiry, which, though admissible according to native law and custom, does not strictly comply with the law in force relating to the admissibility of evidence, the tribunal shall record its reasons for admitting such evidence.

The Trout Ordinance.—The Trout Protection Ordinance, 1928, was enacted when Government first decided to take over the control of, and the full responsibility for, trout conservation and trout fishing in Kenya. That Ordinance was, in view of the considerable increase in trout fishing and the need for a much wider measure of control, considered out of date. The object of the Trout Ordinance, 1948, is to bring about more effective control, not only of trout fishing within the Colony, but also of the waters in which such trout are available.

The Kenya Police Force Reserve Ordinance.—This Ordinance establishes a Reserve Police Force, to be known as the Kenya Police Reserve. Section 4 provides that members of the Reserve shall consist of any persons over the age of 18 years who volunteer for service and are considered by the Commissioner to be suitable for enrolment and section 5 provides that the Reserve may be employed in assisting the Kenya Police Force in the maintenance of law and order, the prevention and detention of crime and the apprehension of offenders. Section 6 divides the Reserve into two classes, Class A consists of those Reserve police officers who, upon enrolment, undertake to carry out such police duties as they may be required to do by the Commissioner and such training as the Commissioner may order; members of Class B undertake to carry out police duties only during an emergency. Section 8 provides that Reserve police officers shall enrol for a minimum period of two years; they may re-engage for further service for periods of two years.

The Resident Labourers (Amendment) Ordinance.—Section 2 of this measure amends certain definitions contained in the Resident Labourers Ordinance, 1937, and inserts some new definitions. Sections 3 and 4 confer certain powers upon labour officers, in addition to District Commissioners. These powers, which have hitherto been exercised by a District Commissioner, will now be exercised by a labour officer. Section 12, by the enactment of a new section 17 of the principal Ordinance, confers certain powers upon authorized officers which will enable them to ensure that the provisions of the principal Ordinance are being properly observed. Experience has shown that the powers at present conferred are insufficient, and the section remedies the position. Section 14 removes the penal sanctions formerly contained in the principal Ordinance, but leaves the employer with his remedies for breach of contract.

The Possession of Industrial Alcohol Ordinance.—The main purpose of this Ordinance is to prohibit the possession of industrial alcohol without a permit.

Section 4 of the Ordinance gives the police power to search persons and premises for industrial alcohol where it is believed, on reasonable grounds, that the provisions of the Ordinance are being contravened. The Ordinance enacts, as permanent legislation, the provisions of the Defence (Possession of Industrial Alcohol) Regulations, 1945, which were introduced as an emergency measure.

The Courts Emergency Powers (Repeal) Ordinance.—It was represented to the Government that the time had arrived when the justification for the Courts (Emergency Powers) Ordinance, 1944, no longer existed. The Government came to the conclusion that such representations were justified, and this measure, therefore, repeals the 1944 Ordinance.

The Credit to Natives (Control) Ordinance.—Under the Credit Trade with Natives Ordinance (Chapter 130 of the Revised Edition), no contract for the sale on credit of goods to the value of more than £10 could be enforced against an African unless the contract was in writing and attested by an administrative officer. With the development of the African it was considered that the provisions of the law were not only restrictive but that they were unnecessary. This measure repeals and replaces Chapter 130 of the Revised Edition. Although the restrictions specified in section 2 of the Ordinance still remain, provision is made for exempting natives from the provisions of the Ordinance, and when a native has been exempted he is liable in respect of any transaction to the same extent as any other person.

The Income-tax (Amendment) Ordinance.—This measure amends the Income-tax Ordinance, 1940, so as to provide for a reduction in the amount of Income-tax payable by individuals for the year of assessment commencing on January 1, 1948. For the convenience of taxpayers a Schedule in the form of a ready reckoner is added to the Ordinance from which the amount of tax payable can be seen at a glance.

The Employment of Women, Young Persons and Children Ordinance.—The Employment of Women, Young Persons and Children Ordinance, 1933, was enacted with a number of references to International Conventions; moreover the actual Conventions were reproduced as part of the Ordinance. As that Ordinance required further amendment and was becoming cumbersome, the opportunity has been taken of recasting it in order to simplify and shorten it.

The Trade Disputes (Arbitration and Inquiry) Ordinance.—The general objects of this measure are explained in the long title which reads "An Ordinance to Provide for the Establishment of Arbitration Tribunals and Boards of Inquiry in Connection with Trade Disputes, and to make Provision for the Settlement of such Disputes and of Inquiring into Economic and Industrial Conditions in the Colony." It replaces the Trade Disputes (Arbitrations and Inquiry) Ordinance, 1940, which was based on a model Ordinance, enacted in Trinidad and Tobago but which, in certain respects, has been found unsuitable for conditions in the Colony.

Workmen's Compensation Ordinance.—The Workmen's Compensation legislation in Kenya and Uganda was largely based on the East and West African Model Ordinance prepared by the legal advisers to the Secretary of State. The Government of Tanganyika had for some time past been considering the introduction of similar legislation and uniformity in a matter of this nature was regarded as highly desirable from many aspects. The main object of the Workmen's Compensation Ordinance, 1948, was therefore to achieve such uniformity between Kenya, Tanganyika and Uganda. The Ordinance closely follows the Workmen's Compensation Ordinance, 1946, which will be repealed when the Ordinance is brought into force. The amendments contained in the 1948 Ordinance could have been effected by means of an amending Ordinance to the 1946 Ordinance, but in view of the importance of the legislation and the difficulty

laid down. Section 3 enlarges the powers of the Registrar to refuse registration, and section 4 enlarges his powers to cancel registration. Two new sections are added to the principal Ordinance which enable the Registrar to call for accounts and to inspect such accounts and other documents.

The Sugar (Amendment) Ordinance.—This measure amends the Sugar Ordinance (Chapter 134 of the Revised Edition) by adding two new sections, sections 8A and 8B. Section 8A enables aircraft and vessels to be searched if it is suspected that they are being used in the commission of an offence against the provisions of the principal Ordinance, which contained provisions in the case of vehicles only. Section 8B provides that where any aircraft, vessel or vehicle is used in the commission, or attempted commission of an offence, the aircraft, vessel or vehicle shall, on conviction of the offender, be forfeited to His Majesty. It also provides that where any aircraft, vessel or vehicle has been detained by a police officer and no person is within seven days charged with any offence a police officer may apply to a magistrate to hold an inquiry into the circumstances in which the aircraft, vessel or vehicle was detained and to determine whether or not it was used or employed in the commission of an offence. If the magistrate is satisfied that it was so used or employed, it is forfeited to His Majesty; if, however, the owner satisfies the magistrate that neither he nor any of his agents or servants were aware of or consented to the use or employment of the aircraft, vessel or vehicle, no forfeiture will take place. These provisions it is considered will deter persons from using aircraft, vessels or vehicles for the purpose of committing offences under the law.

The Control of Detained Persons (Amendment) Ordinance.—This measure makes it clear that where any person has been ordered to be detained or deported by the authorities of any British Colony or Protectorate, or of any territory in respect of which a mandate on behalf of the League of Nations has been accepted by His Majesty or of any territory in the occupation or under the administration of His Majesty's Armed Forces, when such persons have been received within the Colony and detained therein by an order made by the Governor, such order shall remain in full force and effect notwithstanding that the authority of His Majesty in any such Colony, Protectorate or territory shall have ceased. The measure also makes it clear that any detainee may be deported from the Colony by order of the Governor.

The Legislative Council (Amendment) Ordinance.—This Ordinance temporarily amends the principal Ordinance (No. 26 of 1935) by altering the system of Indian representation in the Central and Eastern Areas. It provides for separate Muslim and non-Muslim representation and also makes certain other consequential amendments. It also alters the boundaries of certain electoral areas.

The European Agricultural Settlement Ordinance.—This measure gives general effect to the policy, already approved, for European agricultural settlement in the Highlands. Section 3 enables the Governor, after consultation with the European Elected Members of the Legislative Council, by notice in the *Gazette,* to appoint a European Agricultural Settlement Board consisting of a chairman and such other persons as the Governor may appoint, and section 4 sets out the duties of the Board, which are, *inter alia,* to advise on settlement schemes and the development and improvement of land acquired for that purpose. Section 5 establishes a European Agricultural Settlement Fund which shall, subject to any special directions of the Governor in Council, be under the control of the Member for Agriculture. The Fund will consist of moneys allocated by the Legislative Council for the purpose, rentals, interest on rentals, payment of advances and moneys derived from the sale of any land acquired by the Member for the purpose of any approved settlement scheme. Section 6 confers power on the Member to utilize the Fund for the purchase of land for any approved settlement scheme; for carrying on the business of field and animal husbandry or for establishing permanent improvements on any land acquired or on any

Crown land placed at his disposal by the Governor for the purposes of the measure and for a number of other purposes. Section 7 makes moneys advanced to an assisted owner a first charge upon the interest of such owner in the land in respect of which the advance is made; and section 8 enables the Member or any person duly authorized by him, in writing, where any advance has been made and secured upon any land to exercise all the remedies for the recovery of such advances as the Land and Agricultural Bank is empowered to exercise. Section 9 makes it an offence for any person to apply any part of an advance made to any purpose other than the purpose for which the advance is made, and section 10 exempts an advance so made from attachment in execution of any judgment or decree of any court. Section 12 enables the Governor, notwithstanding the provisions of the Crown Lands Ordinance and the Registration of Titles Ordinance, for the purpose of giving effect to any approved settlement scheme, to grant leases of Crown land in the Highlands to any European for the life of such European, or for a term of years, upon such conditions as may be prescribed.

The Diplomatic Privileges (Extension) Ordinance.—This measure brings Kenya legislation into line with that of the United Kingdom in making provision for certain immunities and privileges to be granted to member governments of the United Nations Organization.

The Control of Life Assurance Business with Natives (Amendment) Ordinance.—Section 2 of this measure amends section 2 of the principal Ordinance (No. 6 of 1945) in order to enable the Governor to withdraw his approval from any person authorized to effect life assurance business with Africans. This provision was considered desirable to meet any case where such business was not being carried out satisfactorily. It also provides that any guarantee given by any approved person, the approval of whom is withdrawn, shall continue until all the liabilities of that person under the guarantee are extinguished. The amending Ordinance enables certain Africans to be exempted from the provisions of the principal Ordinance.

The Civil Procedure (Amendment) Ordinance.—This measure repeals subsections (3) and (4) of section 40 of the principal Ordinance (No. 3 of 1924). Under those subsections any person who owed any sum of money could, on his own application, be adjudicated a bankrupt and so evade payment by instalments. The procedure in the United Kingdom is for an order to be made for a debtor to make payment by instalments if the court is satisfied that he can reasonably do so from his salary or other income. The amending Ordinance merely brings the policy in the Colony into line with that in the United Kingdom as it is considered more equitable to creditors.

The Probation of Offenders (Amendment) Ordinance.—Under section 3 (1) of the principal Ordinance (No. 29 of 1943) any subordinate court could, under certain circumstances, make probation orders against any person charged with an offence before it. Section 2 of this measure amends the above-mentioned subsection in order to enable subordinate courts to require an offender to enter into a recognizance, with or without sureties. The recognizance may be forfeited to His Majesty should the offender commit a breach of the conditions of the probation order made against him. Section 3 substitutes a new subsection (2) in section 6 of the principal Ordinance in order to enable a summons or warrant to be issued against a probationer who has committed an offence subsequent to the issue of the probation order requiring him to come before any court and not necessarily the court which made the probation order. It also enables any court to accept any probation order purporting to bear the signature of the Judge or magistrate who made it, as genuine, unless the contrary is proved. And section 4 amends section 7 (3) (a) by providing that should any sum become forfeited by the probationer, to His Majesty, under any recognizance, he may not, in addition, be fined for a breach of the probation order.

The Explosives (Amendment) Ordinance.—Under the principal Ordinance, the Explosives Ordinance, 1929, there was no provision for the control of the use of blasting materials when they are used at a depth of 30 feet or more below the surface of the ground. This measure rectifies the position by providing that no person shall use, or cause to be used, blasting materials under such circumstances unless he is in possession of a valid miner's blasting certificate issued to him in accordance with the provisions of the Mining Ordinance, 1940, or unless he is under the immediate supervision of a person holding such a certificate.

The Land and Agricultural Bank (Amendment) Ordinance.—This measure amends the principal Ordinance (No. 3 of 1931) so as to confer upon the Bank wider powers to protect its securities.

The Prisons Ordinance.—The Prisons Ordinance, 1930 (No. 37 of 1930) had had numerous amendments since it was enacted and it was felt that further important amendments were necessary in order to bring it into line with more modern legislation. It has, therefore, been re-enacted and those of its provisions which were considered appropriate to the present time have been incorporated.

The Tea Ordinance, 1948.—This measure re-enacts the provisions of the Tea Ordinance, 1934. Section 15 provides that the Ordinance shall continue in force until December 31, 1949, but it contains a proviso enabling the Ordinance, with the approval of the Legislative Council, to be further continued in force for such period as may be specified by the Governor, by proclamation.

The Bankruptcy (Amendment) Ordinance.—This Ordinance gives effect to the recommendations of conferences of the Official Receivers of the three East African territories which were held in 1945 and 1946. The measure, which has received the approval of the Kenya Chambers of Commerce, is an attempt to bring the law prevailing in the three territories more closely into line.

The Local Government Municipalities.—This Ordinance makes a number of amendments to the principal Ordinance (No. 19 of 1928) some of which were necessary to give effect to the re-organization of the central administration of local government; others are amendments which experience has shown to be desirable.

The Penal Code (Amendment, No. 2) Ordinance.—Section 2 of this measure amends paragraph (a) of section 47 by making it an offence to seduce any person serving in the military forces of the Colony or any member of the police force from either his duty or his allegiance to His Majesty. Before this amendment it was an offence only if any such a person was seduced both from his duty and his allegiance. Section 3 repeals and replaces section 91 of the principal Ordinance by widening its scope. This amendment is considered necessary in view of the fact that certain sanctions contained in the Employment Ordinance, 1938, have been removed. Section 4 adds a new section, 174A, making it an offence for any person to take part in the organization, management or conduct of a "pool," which is defined as "any invitation to the public to foretell the result of any game, race or event, which the Governor in Council has declared, by notice in the *Gazette,* to be a pool for the purposes of this section." Section 5 amends section 203 of the Code. Section 202 of the Code provides that, where a homicide is committed in the heat of passion caused by sudden provocation, as defined in section 203, the accused is guilty of manslaughter and not murder. In section 203 provocation is defined as a wrongful act or insult of such a kind as to deprive an ordinary person of self-control and induce him to assault the person offering the provocation. The effect of a decision of the Court of Appeal for Eastern Africa is to interpret this provision in such a way that if an ordinary person would have been induced by the provocation to commit even a mild assault the offence would be reduced to manslaughter, notwithstanding that the assault actually committed and causing death, may

have been of a savage and brutal description out of all proportion to the nature of the provocation offered. This amendment brings the law here into line with that pertaining in the United Kingdom.

The Employment of Servants (Amendment) Ordinance.—Section 2 of this measure changes the title of the principal Ordinance, the Employment of Servants Ordinance, 1937, to the Employment Ordinance, 1938. The reason for this will be clear if section 2 is read with section 48 of the Ordinance, which replaces the word "servant" (except in the case of domestic servants) by the word "employee" or "person," and the phrase "a Baluchi born in Africa, a Comoro Islander, a Malagasy, a Somali or a native" which, or variations of which, appear upwards of twenty times in the principal Ordinance, by the word "employee" or "person" as appropriate. The main reasons for this change are that the word "servant" in its application to labour was becoming more and more restricted to domestic employment; that inter-territorial uniformity was, as far as possible, being sought and the corresponding Ordinance in Uganda has a similar title and refers to "employees," not "servants"; and that the phrase "a Baluchi born in Africa . . ." was considered both clumsy and unnecessary.

The Criminal Procedure Code (Amendment No. 2) Ordinance.—Section 2 of this measure adds a new subsection to section 25. This new subsection contains the same provisions as are contained in section 304C of the Penal Code. This was considered desirable in view of the consolidation and revision of the laws, which is now taking place, so as to avoid the necessity of legislation by reference. Section 3 inserts a reference to section 304B of the Penal Code, in the First Schedule, so as to enable any offence against that section of the Penal Code to be dealt with by a subordinate court of the first or second class and to permit the arrest of an offender against the provisions of that section without a warrant.

The Stock and Produce Theft (Levy of Fines) (Amendment) Ordinance.—Under the provisions of section 3 of the Stock and Produce Theft (Levy of Fines) Ordinance, 1933, provision was made whereby any fine imposed by a court under that Ordinance could be recovered by way of distress either against the property of the person fined or against the property of his family or tribe. In practice it was found, when an attempt was made to recover compensation or costs as distinct from a fine, that the person who had been ordered by a court to pay compensation or costs invariably denied ownership of any property capable of seizure. As distress for compensation or costs cannot be levied on the property of the family or tribe, the court order, therefore, became ineffective. This reacted most unfavourably against owners of stock which was stolen and slaughtered for meat, a practice which was becoming more prevalent. In such a case the owner could not, of course, recover the animal stolen, and if he could not recover any compensation which may have been ordered against the accused person, he suffered a definite loss. This Ordinance remedies the position and enables distraint to be made for compensation and costs in the same manner as for a fine.

The Special Districts (Administration) (Amendment) Ordinance.—This Ordinance amends the Special Districts (Administration) Ordinance, 1934. Section 2 deletes the definition of "tribesman" and substitutes a new definition which includes females. Section 3 replaces section 5 of the principal Ordinance. The practice regarding the constitution of arbitral tribunals was to appoint an equal number of members of the tribes concerned in a dispute. When a dispute concerns two tribes, a decision by such a tribunal is seldom reached, because the representatives of each tribe usually vote in the interest of their tribe and not in accordance with principles, the application of which would lead to a solution of the dispute. It was considered that it would be more satisfactory if the District Commissioner of the district concerned was appointed as a tribunal sitting with assessors. The District Commissioner would be guided by the opinion of the assessors but would not be bound to give a decision in accordance

with those opinions. The new section gives effect to this policy. Section 8 inserts a new section in the principal Ordinance which provides, *inter alia,* that any person who fails to comply with any order or direction given by a Provincial Commissioner reserving grazing rights, prohibiting the use by any tribesman of any specified grazing or area of water or directing the removal of any village situate in close proximity to the frontier of the Colony, shall be guilty of an offence and may be arrested without a warrant by any police officer or tribal police officer. It also provides that any police officer or tribal police officer may seize such cattle of the person failing to comply with any such order or direction, as he considers will be of equal value to any fine which may be inflicted on such person in connection with his offence. Section 11 amends section 23 of the principal Ordinance which provides that any enquiry under the Ordinance shall be conducted in accordance with the law relating to criminal procedure. This has been found to be impracticable as it is far too restrictive and, in the interests of justice, it was considered that it should be made possible for an enquiry to be conducted in accordance with native law and custom. It provides further that if an arbitral tribunal admits any evidence at an enquiry, which, though admissible according to native law and custom, does not strictly comply with the law in force relating to the admissibility of evidence, the tribunal shall record its reasons for admitting such evidence.

The Trout Ordinance.—The Trout Protection Ordinance, 1928, was enacted when Government first decided to take over the control of, and the full responsibility for, trout conservation and trout fishing in Kenya. That Ordinance was, in view of the considerable increase in trout fishing and the need for a much wider measure of control, considered out of date. The object of the Trout Ordinance, 1948, is to bring about more effective control, not only of trout fishing within the Colony, but also of the waters in which such trout are available.

The Kenya Police Force Reserve Ordinance.—This Ordinance establishes a Reserve Police Force, to be known as the Kenya Police Reserve. Section 4 provides that members of the Reserve shall consist of any persons over the age of 18 years who volunteer for service and are considered by the Commissioner to be suitable for enrolment and section 5 provides that the Reserve may be employed in assisting the Kenya Police Force in the maintenance of law and order, the prevention and detention of crime and the apprehension of offenders. Section 6 divides the Reserve into two classes, Class A consists of those Reserve police officers who, upon enrolment, undertake to carry out such police duties as they may be required to do by the Commissioner and such training as the Commissioner may order; members of Class B undertake to carry out police duties only during an emergency. Section 8 provides that Reserve police officers shall enrol for a minimum period of two years; they may re-engage for further service for periods of two years.

The Resident Labourers (Amendment) Ordinance.—Section 2 of this measure amends certain definitions contained in the Resident Labourers Ordinance, 1937, and inserts some new definitions. Sections 3 and 4 confer certain powers upon labour officers, in addition to District Commissioners. These powers, which have hitherto been exercised by a District Commissioner, will now be exercised by a labour officer. Section 12, by the enactment of a new section 17 of the principal Ordinance, confers certain powers upon authorized officers which will enable them to ensure that the provisions of the principal Ordinance are being properly observed. Experience has shown that the powers at present conferred are insufficient, and the section remedies the position. Section 14 removes the penal sanctions formerly contained in the principal Ordinance, but leaves the employer with his remedies for breach of contract.

The Possession of Industrial Alcohol Ordinance.—The main purpose of this Ordinance is to prohibit the possession of industrial alcohol without a permit.

Section 4 of the Ordinance gives the police power to search persons and premises for industrial alcohol where it is believed, on reasonable grounds, that the provisions of the Ordinance are being contravened. The Ordinance enacts, as permanent legislation, the provisions of the Defence (Possession of Industrial Alcohol) Regulations, 1945, which were introduced as an emergency measure.

The Courts Emergency Powers (Repeal) Ordinance.—It was represented to the Government that the time had arrived when the justification for the Courts (Emergency Powers) Ordinance, 1944, no longer existed. The Government came to the conclusion that such representations were justified, and this measure, therefore, repeals the 1944 Ordinance.

The Credit to Natives (Control) Ordinance.—Under the Credit Trade with Natives Ordinance (Chapter 130 of the Revised Edition), no contract for the sale on credit of goods to the value of more than £10 could be enforced against an African unless the contract was in writing and attested by an administrative officer. With the development of the African it was considered that the provisions of the law were not only restrictive but that they were unnecessary. This measure repeals and replaces Chapter 130 of the Revised Edition. Although the restrictions specified in section 2 of the Ordinance still remain, provision is made for exempting natives from the provisions of the Ordinance, and when a native has been exempted he is liable in respect of any transaction to the same extent as any other person.

The Income-tax (Amendment) Ordinance.—This measure amends the Income-tax Ordinance, 1940, so as to provide for a reduction in the amount of Income-tax payable by individuals for the year of assessment commencing on January 1, 1948. For the convenience of taxpayers a Schedule in the form of a ready reckoner is added to the Ordinance from which the amount of tax payable can be seen at a glance.

The Employment of Women, Young Persons and Children Ordinance.—The Employment of Women, Young Persons and Children Ordinance, 1933, was enacted with a number of references to International Conventions; moreover the actual Conventions were reproduced as part of the Ordinance. As that Ordinance required further amendment and was becoming cumbersome, the opportunity has been taken of recasting it in order to simplify and shorten it.

The Trade Disputes (Arbitration and Inquiry) Ordinance.—The general objects of this measure are explained in the long title which reads "An Ordinance to Provide for the Establishment of Arbitration Tribunals and Boards of Inquiry in Connection with Trade Disputes, and to make Provision for the Settlement of such Disputes and of Inquiring into Economic and Industrial Conditions in the Colony." It replaces the Trade Disputes (Arbitrations and Inquiry) Ordinance, 1940, which was based on a model Ordinance, enacted in Trinidad and Tobago but which, in certain respects, has been found unsuitable for conditions in the Colony.

Workmen's Compensation Ordinance.—The Workmen's Compensation legislation in Kenya and Uganda was largely based on the East and West African Model Ordinance prepared by the legal advisers to the Secretary of State. The Government of Tanganyika had for some time past been considering the introduction of similar legislation and uniformity in a matter of this nature was regarded as highly desirable from many aspects. The main object of the Workmen's Compensation Ordinance, 1948, was therefore to achieve such uniformity between Kenya, Tanganyika and Uganda. The Ordinance closely follows the Workmen's Compensation Ordinance, 1946, which will be repealed when the Ordinance is brought into force. The amendments contained in the 1948 Ordinance could have been effected by means of an amending Ordinance to the 1946 Ordinance, but in view of the importance of the legislation and the difficulty

which is sometimes experienced, by the public, in fully appreciating the significance of amendments, it was considered desirable to place the complete picture before the country, in one comprehensive Ordinance.

The Education (Amendment) Ordinance.—Certain difficulties have arisen in connection with the collection of schools fees of children enrolled at Government schools. Owing to the restricted definition of "Parent" in the principal Ordinance, the Education Ordinance, 1931, fees could not be collected from a mother who enrolled a child but who is living apart from her husband; neither could the fees be collected from the father in such cases. Section 2 of the measure substitutes a wider definition of "Parent" so as to include the father, the mother, the step-father and the step-mother and any person having lawful custody of a child. The amending Ordinance also enables the Director of Education to institute proceedings for the recovery of any fees or other sums due, in respect of the attendance of a child at a Government school, against any parent of such child.

The Sisal Industry (Amendment No. 2) Ordinance.—This measure makes certain amendments to the principal Ordinance, the Sisal Industry Ordinance, 1945, so as to allow the more efficient and ordered handling of sisal products by the Sisal Board to the extent found necessary by experience. Section 3 adds a new section 6A to the Ordinance which enables the Board to appoint agents for the purpose of the receipt and sale or other disposal of sisal and sisal fibre produced in the Colony. This section makes it necessary that any such agent shall be licensed. Section 4 enables the Board, from time to time, to fix prices to be paid for sisal or sisal fibre.

The Native Poll Tax (Amendment) Ordinance.—This measure amends the principal Ordinance, the Native Poll Tax Ordinance, 1942, in order to provide for the more effective collection of Native Poll Tax.

The Police Ordinance.—The Police Ordinance, 1930, had been amended on many occasions since it was enacted and further important amendments were considered to be necessary so as to bring the Ordinance into line with modern practice in the United Kingdom and elsewhere. The opportunity was, therefore, taken to re-enact that measure. Many of the sections of the 1930 Ordinance are contained in the measure without alteration and the opportunity has been taken to clarify some of its other provisions. Section 8 substitutes the "Member" who is defined in section 2 as the Member of the Executive Council of the Colony for the time being responsible for law and order, for the Governor, as the authority to whom the Commissioner is responsible for the command, superintendence and direction of the force. Section 6 defines the functions of the police and section 7 lays down their possible role in war or in any other emergency. Section 9 vests the administration of the Force in the Commissioner subject to the orders and directions of the Member.

The Asiatic Widows' and Orphans' Pension (Amendment) Ordinance, 1948.—This Ordinance allows more equitable distribution of pension in the case of polygamous marriages than was possible under the principal Ordinance, the Asiatic Widows' and Orphans' Pension Ordinance, 1927.

The Penal Code (Amendment No. 2) Ordinance.—The collecting of subscriptions of money for various objects was becoming increasingly prevalent in the Colony. Complaints had been made to the Government that there are no means of ascertaining the true object of these appeals, nor that any money collected was properly applied. The Penal Code (Amendment, No. 2) Ordinance, 1948, establishes a policy of control.

The Municipalities (Amendment No. 3) Ordinance.—This Ordinance enables Municipal Councils to raise loans by such means and on such conditions as may be laid down by the Governor in Council.

The Local Government (Loans) (Amendment) Ordinance.—This measure facilitates the raising of loans by Municipal Councils and extends the loan-raising powers of local authorities.

The Trustee (Amendment) Ordinance.—This measure provides that Municipal Council or Board loans shall rank as trustee securities.

The Revised Edition of the Laws Ordinance.—This Ordinance provides for the preparation and publication of a Revised Edition of the Laws of Kenya by a Commissioner specially appointed for the purpose. It follows the usual form of such Ordinances and the only point that need be mentioned is that opportunity is taken to implement the promise made by Government that the word "native" would be replaced by the word "African" so far as possible throughout the Colony's legislation. Section 8 of the measure makes specific provision for this purpose, and necessary consequential amendments to the Interpretation (Definition of "Native") Ordinance, 1934, are included in the Second Schedule to the measure.

The Customs Management (Amendment) Ordinance.—This Ordinance amends the principal Ordinance, the Customs Management Ordinance, 1926, so as to enable administrative effect to be given to the amalgamation of the Customs Department of Kenya and Uganda with the Customs Department of Tanganyika which came into force on January 1, 1949.

The Native Poll Tax (Municipalities) Ordinance.—It was recognized that Africans resident in municipalities who had, under the provisions of the Native Poll Tax Ordinance, 1942, been paying the standard rate of poll tax plus the sum of Sh. 2/- for local purposes, were at an advantage compared with Africans in Local Native Council areas who paid much higher sums and that the local authorities in municipalities should have access to a source of revenue with which to provide services for Africans, such as those provided by Local Native Councils in their respective areas. The Native Poll Tax (Municipalities) Ordinance, 1948, provides for the raising of revenue in the municipalities of Nairobi and Mombasa at rates of poll tax comparable with those paid by Africans in Local Native Council areas if the Local Native rate and poll tax are taken into account. The proceeds of such taxation, after the deduction of the amount due to the Government, will be used for local purposes, such as education and public health, and part will be paid to the municipal authorities in consideration of the services which they give to Africans within their area; part will also be paid to Local Native Councils. This amount of poll tax will be payable by any African tendering tax or required to pay tax within either of the two municipalities, but an African who has already paid the Local Native rate in his area will not be required to pay more than the amount prescribed as the Government tax for that area. The Ordinance is to continue in force until December 31, 1949, but the Governor may extend its operation with the approval of the Legislative Council.

The Native Trust Fund (Amendment) Ordinance.—Africans living in areas outside of the Local Native Council areas pay a tax under the Native Poll Tax Ordinance, 1942. Of this tax Sh. 2/- is analogous to the local native rate levied in Local Native Council areas and this amount accrued to the Native Trust Fund for services outside of the Local Native Council areas. Under the proviso to paragraph (c) of section 7 of the principal Ordinance, the Native Trust Fund Ordinance, 1942, the whole of this amount, in respect of poll tax paid in the Coast Province, was applied for the benefit of the natives resident in that province and one-half of the amount, if paid other than in the Coast Province, was paid to the funds of the Local Native Councils. It was considered equitable in view of the facilities given to Africans in non-native areas who pay Local Native Council rates, that the whole sum of Sh. 2/- should be available for payment to the authorities who provide such facilities. This measure, therefore, amends the principal Ordinance so as to permit this policy to be implemented under the Native Poll Tax (Municipalities) Ordinance, 1948.

The Immigration (Control) (Amendment) Ordinance.—The Immigration (Control) Ordinance, 1948, enabled any person who was a permanent resident to obtain a certificate to that effect. The effect of the issue of such a certificate was that if a person, to whom one had been made, left the Colony he had to be accepted back, irrespective of whether or not his presence in the Colony was undesirable or would be dangerous to peace and good order. The Immigration (Control) (Amendment) Ordinance, 1948, amends the proviso to the definition "permanent resident" so as to exclude from such definition any person who, in the opinion of the Governor in Council, should be so excluded in the interests of the Colony. Such a person could not then, as of right, demand a certificate of permanent residence.

1949

In the year 1949 the Legislative Council of Kenya passed 62 Ordinances, of which the following are the more important:

The Mental Treatment Ordinance.—The Mental Treatment Ordinance, 1949, revises completely the law in regard to the treatment of mental disorders and the management of the estates of persons suffering from such disorders or found to be of unsound mind, and in regard to the control and management of mental hospitals in the Colony. Prior to the enactment of this Ordinance, the law on the subject in force in the Colony was contained in two Indian Acts of 1858. These were repealed in India in 1912. One of the fundamental weaknesses of those Indian Acts was that no provision existed for a person suffering from a mental disorder or defect to be received voluntarily into a mental hospital for treatment. The Ordinance, therefore, makes an important and necessary change in this respect.

The Diamond Industry Protection.—Experience in Tanganyika showed that the Diamond Industry Protection Ordinance of that territory was unsatisfactory in many respects and, in 1946, that Ordinance was substantially amended. The Diamond Industry Protection Ordinance, 1934, of Kenya was modelled on the Tanganyika Ordinance. While diamonds have not yet been found in marketable quantities in this Colony, it was considered desirable that the legislation on the subject should be brought up to date and into line with that of Tanganyika and as the amendments were numerous and widespread throughout the Ordinance it was considered preferable to repeal the 1934 Ordinance and re-enact it with the necessary amendments. The Diamond Industry Protection Ordinance, 1949, re-enacts, with the amendments necessary to bring it into line with the provisions of the Tanganyika legislation the law relating to the protection of the diamond industry.

The Estate Duty (Consolidation) (Amendment) Ordinance.—Under section 11 of the Estate Duty (Consolidation) Ordinance, 1926, estate duty was levied and paid upon the principal value of an estate. The expression "principal value" was not defined in the Ordinance and the practice was to charge duty on the market price at the date of death. Section 2 of the Estate Duty (Consolidation) (Amendment) Ordinance, 1949, accordingly defines "principal value" to mean "the price which the property would be estimated to fetch if sold at the time of the death of the deceased." Under section 20 (3) of the Estate Duty (Consolidation) Ordinance, 1926, an Assistant Commissioner could require a valuation for estate duty purposes to be made and signed by an approved valuer. The Estate Duty Commissioners were not, however, bound to accept a valuation submitted by an approved valuer and, in practice, valuations made by persons other than approved valuers were often accepted and not all valuations made by approved valuers were accepted. The provisions regarding valuers have no counterpart in the United Kingdom legislation or the estate duty legislation of many other colonies and their retention was considered

undesirable. Section 4 of the Ordinance amends the Estate Duty (Consolidation) Ordinance, 1926, so as to give power to the Governor in Council to remit the payment of estate duty in cases in which payment would cause exceptional hardship.

The Law Society of Kenya Ordinance.—The Law Society of Kenya Ordinance, 1949, incorporates the Law Society of Kenya, and gives it certain statutory powers. Upon the commencement of the Ordinance, the existing Law Society, which was an unincorporated body, will cease to exist and the property and assets of the existing Law Society will be vested in the corporate body. Part II of the Ordinance provides for the incorporation and sets out the objects and powers of the Law Society. Part III sets out the qualifications necessary for membership of the Society and expulsion and resignation of members. Parts IV and V provide for the constitution of the Council of the Society, for its powers and procedure and for the appointment of committees and officers. Part VI provides for the holding of general meetings of the Society and for the voting and procedure thereat. Parts VII and VIII contain provisions for the custody and use of the Common seal of the Society, for the keeping of minutes and accounts and the annual report of the Council, and Part IX confers powers on the Council to make regulations, binding on members of the Society, prescribing such matters as may be necessary for the proper conduct and regulation of the affairs of the Society.

The Eviction of Tenants (Control) Ordinance.—The Eviction of Tenants (Control) Ordinance, 1948, was enacted to prevent the eviction of certain tenants in the Coast Province who occupied houses to which Rent Control legislation was not applicable. Under the Ordinance proceedings for the eviction of a tenant occupying a house in any of the areas set out in the Schedule to the Ordinance, were prohibited except with the consent of the Rent Control Board for the Coast Province, and the conditions under which the Board could give such consent were prescribed by the Ordinance.

It was found, however, that the provisions of this Ordinance operated to prevent the Mombasa Municipal Board from carrying on their statutory duties and powers. It was also necessary for a definition of "house" to be inserted so as to limit the operation of the Ordinance to houses as defined. The Ordinance being a short one it was considered preferable to repeal and re-enact its provisions with the amendments necessary to rectify the defects noted above and the Eviction of Tenants (Control) Ordinance, 1949, was accordingly enacted.

Later in the year the Ordinance was amended to place it beyond doubt that the protection against eviction given by it to persons occupying houses in certain districts of Mombasa was to continue, notwithstanding the application to them of the provisions of the Increase of Rent (Restriction) Ordinance, 1949. The opportunity was also taken to insert a new section which prohibits the raising, without the consent of the Rent Control Board, of the rent of the land upon which a house which does not belong to the owner of the land is built above the rent payable on the date of the commencement of the Increase of Rent (Restriction) Ordinance, 1949.

The Nurses and Midwives Registration Ordinance.—The Nurses and Midwives Registration Ordinance, 1949, was enacted in order to give effect to recommendations of the Nursing and Midwives Council Committee. The Ordinance establishes and constitutes a Council for controlling and supervising the training of nurses and midwives and for improving their standards of qualifications and conditions of training.

The Immigration (Control) (Amendment) Ordinance.—The Immigration (Control) (Amendment) Ordinance, 1949, amends the Immigration (Control) Ordinance, 1948 (referred to as the principal Ordinance) in certain respects, which experience has shown to be necessary. The Ordinance has been prepared as a result of a conference between the Law Officers and Principal Immigration

Officers of the four East African territories of Kenya, Tanganyika, Uganda and Zanzibar. It was found, in practice, that the Principal Immigration Officer had to delegate some of his functions to a deputy, and other powers to immigration officers at Mombasa. Accordingly section 2 has been amended so as to confer power on the Governor to appoint a Deputy Principal Immigration Officer and also to enable the Principal Immigration Officer to delegate his powers. Section 4 of the principal Ordinance is amended so as to permit an immigration officer to require the master of a ship, or captain of an aircraft, or guard of a train, or person in charge of a vehicle leaving, as well as arriving from, any place outside the Colony, to furnish a list of the persons in his ship, aircraft, train or vehicle. An amendment is also made to this section to permit the arrest of a person whose presence in the Colony is unlawful, if, in order to prevent justice being defeated, it is necessary to arrest him immediately. Section 5 (1) of the principal Ordinance provided that certain persons, therein detailed, were prohibited immigrants, and that it was unlawful for them to enter the Colony. Section 5 of Ordinance No. 20 of 1949 amends this so as to make not only the entry into, but also the presence in, the Colony of prohibited immigrants unlawful; section 5 is further amended to make it plain that "prohibited immigrant" includes any person against whom there is in force an order of deportation from the Colony, whether the deportation order is made under the principal Ordinance or any other law. As the principal Ordinance stood, there was no provision which allowed a person who came within any of the categories of "prohibited immigrant," to alter his status and obtain a permit to enter the Colony. Ordinance No. 20 of 1949 amends section 5 (1) of the principal Ordinance by inserting provisos to the effect that a person who is in possession of a valid pass (including a prohibited immigrant's pass), allowing him to enter the Colony is not, during the period for which such pass or permit is issued, to be deemed to be a prohibited immigrant, and that when such person has been issued with a valid entry permit or his name endorsed as a dependent upon a valid entry permit, he shall cease to be a prohibited immigrant. Section 5 of the principal Ordinance is also amended to provide that any person who, within four years of his entry into the Colony, is found by the Principal Immigration Officer to have been a prohibited immigrant under the law in force at the time of his entry, is to be deemed to have been a prohibited immigrant at the time of such entry, whether he entered the Colony before or after the coming into operation of the principal Ordinance. Section 6 of the principal Ordinance is amended by extending the right to enter the Colony without a permit to civilian employees of any of His Majesty's Departments of State, their wives and children, as well as to serving members of His Majesty's Forces, their wives and children. It was found, by experience, that the various maximum sums, specified in section 7 of the principal Ordinance, of which an intending immigrant falling within Classes B, C, D or E must have in his own right and at his free disposition, were too small. Accordingly, section 7 (1) is amended to provide for the maximum sum to be prescribed for each category by regulations made by the Governor in Council. Section 7 (2) is amended to provide that if a person granted an entry permit for a particular employment fails to engage in that employment or to continue in it for four years, he is to be deemed to be a person seeking to enter the Colony *de novo*. Section 8 raises the age below which particulars of children may be endorsed on the entry permits of one or other parent from 16 to 18 years. Section 9 is amended to make it clear that the Governor may include in a deportation order a direction that the person shall remain out of the Colony. Provision is also made for detention pending deportation. Section 10 increases the penalties for returning to the Colony in breach of a deportation order.

The Increase of Mortgage Interest (Restriction) Ordinance.—Increase of Mortgage Interest (Restriction) Ordinance, 1949, re-enacts the provisions relating to restrictions of increase of mortgage interest which were previously contained

in the Increase of Rent and of Mortgage Interest (Restrictions) Ordinance, 1940. The latter Ordinance was recently repealed and a new Ordinance providing for control of the increase of rent was enacted and the opportunity was taken to separate the provisions relating to mortgage interest from those relating to rent.

The Increase of Rent (Restriction) Ordinance.—The Increase of Rent (Restriction) Ordinance, 1949, was enacted to give effect to the recommendations of a Committee appointed to consider the Increase of Rent and of Mortgage Interest (Restrictions) Ordinance, 1940. For convenience the provisions of the Increase of Rent and of Mortgage Interest (Restrictions) Ordinance, 1940, which dealt with mortgage interest, have been removed from Ordinance No. 22 and form the subject of a separate Ordinance. This Ordinance therefore makes provision in relation to the increase of rent and the recovery of the possession of premises to which it applies. The Ordinance applies both to the dwelling houses and business premises which are situate in any area in which there has been established a Rent Control Board. Certain types of premises are, however, expressly exempted from the application of the Ordinance.

The Mombasa Shop Hours Ordinance.—The provisions of the Shop Hours Ordinance, 1925, which are in force in other parts of Kenya, were never applied to the Municipality of Mombasa because the restricted shop hours prescribed under that Ordinance would prove inconvenient to ship's passengers, shopkeepers and residents in and around the docks. It was, however, necessary to give protection to employees working in shops at Mombasa, and the Mombasa Shop Hours Ordinance, 1949 (No. 26 of 1949) was enacted to regulate the hours of work of, and to protect the rights of, shop assistants in Mombasa. The Ordinance was enacted to give effect to the recommendations of the report of a Committee appointed to examine the question as to the necessity for separate legislation in relation to shop hours in Mombasa. The Ordinance replaces the Mombasa Shop Assistants Ordinance, 1937, which experience showed did not afford adequate protection to shop assistants in Mombasa.

The Protected Areas Ordinance.—Serious thefts of arms, ammunition and military stores have taken place from military depots and dumps. The Protected Areas Ordinance, 1949, was enacted in order to enable increased security measures for the safeguarding of arms, ammunition and other military stores in places where they are kept in the Colony to be taken, and to prevent the entry of unauthorized persons into such places.

The Evidence (Bankers' Books) (Amendment) Ordinance.—It is sometimes desirable to admit as evidence in legal proceedings in Kenya copies of entries in the books of bankers carrying on business in Tanganyika, Uganda or Zanzibar in the same manner as, and subject to the same conditions under which copies of entries in the books of bankers carrying on business in the Colony are admitted in such proceedings. Conversely, it may be desirable under section 7 of the Evidence (Bankers' Books) Ordinance, 1937, to inspect and take copies of entries in bankers' books in Kenya with a view to obtaining evidence which may be used in legal proceedings instituted in Tanganyika, Uganda or Zanzibar. Hitherto neither of these courses was permissible. The Evidence (Bankers' Books) (Amendment) Ordinance, 1949, accordingly amends the Evidence (Bankers' Books) Ordinance, 1937, to provide for this.

The Radioactive Minerals (Amendment) Ordinance.—The Radioactive Minerals Ordinance, 1948 (referred to as the principal Ordinance) prohibited prospecting for any radioactive mineral except under licence from the Governor. By reason of the increasing importance of such minerals and the necessity of securing a sufficient supply from sources within the Commonwealth, the Secretary of State requested that everything possible should be done to encourage persons to prospect for radioactive minerals. The fact that prospecting for such minerals by the holder of a prospecting right was not permitted unless the holder also obtained a licence might have acted as a deterrent to would-be prospectors.

The Radioactive Minerals (Amendment) Ordinance, 1949, amends section 3 of the principal Ordinance so as to obviate the necessity for a person to obtain a licence from the Governor to prospect for radioactive minerals and provides instead that such a person need only secure an endorsement by the Commissioner of Mines and Geology, on a prospecting right issued to him under the Mining Ordinance, 1940, specifically authorizing him to prospect for such minerals. Provision is made for appeal to the Governor against a refusal by the Commissioner so to endorse a prospecting right. Section 4 of the principal Ordinance required a monthly report to be made by anyone prospecting for radioactive minerals. This provision, it was considered, might well act as a deterrent to would-be prospectors and was not considered of such importance as to justify its retention and was therefore repealed.

The Trade Unions (Registration) Ordinance.—The Trade Unions and Trade Disputes (Amendment) Ordinance, 1948, amended the Trade Unions and Trade Disputes Ordinance, 1943, in various respects, and in particular by specifying certain additional matters in respect to which a trade union is required to satisfy the Registrar of Trade Unions before it can be registered. It was considered desirable, in the public interest and in order to secure a uniform application of the trade union law, that every trade union, and not only trade unions which sought registration subsequent to the 1948 amendment, should satisfy the Registrar in regard to these additional requirements. Accordingly, section 3 of the Trade Unions (Registration) Ordinance, 1949 (No. 35 of 1949) enables a trade union which was registered before April 20, 1948 to apply for re-registration within one month from the commencement of the Ordinance. Failure to do so entails cancellation by the Registrar of the original registration. Re-registration may be had without fee, and may be granted as if it were a new registration and antedated to the date of the original registration, or may be refused on any ground upon which registration could be refused or cancelled under the 1943 Ordinance, on the ground that the trade union has not, since its original registration, complied with the provisions of the Trade Unions and Trade Disputes Ordinance, 1943. The right of appeal against a refusal by the Registrar to register a trade union contained in that Ordinance will apply also to a refusal to register under this Ordinance.

The Deportation (Aliens) Ordinance.—The Deportation (Aliens) Ordinance, 1949, brings up to date and strengthens the law relating to the control and deportation of aliens. Deportation of immigrant British subjects is dealt with by a separate Ordinance, and deportation of prohibited immigrants and of destitute persons is covered by the Immigration (Control) Ordinance, 1948.

The Deportation (Immigrant British Subjects) Ordinance.—Chapter 61 of the Revised Edition allowed the deportation from Kenya of any person, whether a British subject or an alien, and whether he belonged to Kenya or not. This provision was considered too wide. The Deportation (Immigrant British Subjects) Ordinance, 1949, strengthens and brings up to date the law on the subject and will not permit of the deportation of any British subject unless he is an "immigrant British subject" who does not "belong to Kenya" within the meaning of those expressions as defined in the Ordinance. No person can be deported under this Ordinance unless he is either a convicted person whom a court recommends for deportation or an undesirable person reported on to the Governor by a court.

The Voluntarily Unemployed Persons (Provision of Employment) Ordinance. The Voluntarily Unemployed Persons (Provision of Employment) Ordinance, 1949, makes it obligatory upon every adult male "unemployed person," as defined in the Ordinance, to report to a Labour Exchange where he will be registered and either offered suitable employment or issued with a certificate that he has reported and requiring him to report again on a specified date. If an unemployed person refuses to accept an offer of employment and the officer in

charge of a labour exchange is of opinion that he is a voluntarily unemployed person he shall be ordered to report to a labour exchange committee. A Labour Exchange Committee may require a person who appears before it to show cause why he should not be declared to be a "voluntarily unemployed person," that is to say, an unemployed person who is not genuinely seeking employment. If he shows that he is genuinely seeking employment, he may be granted a certificate of exemption from the provisions of the Ordinance. If he fails to show cause to the satisfaction of the Committee, he may be declared to be a voluntarily unemployed person, and may be directed into employment. The Ordinance will only remain in operation for one year unless extended by resolution of the Legislative Council.

The Customs Tariff (Amendment, No. 2) Ordinance, 1949, and The Customs Tariff (Amendment, No. 3) Ordinance, 1949.—The Customs Tariff (Amendment, No. 2) Ordinance, 1949, was enacted to give effect to certain changes in the Customs Tariff Ordinance, 1947, by varying the rate and incidence of customs duties. To achieve this the rates of duty on many articles were varied. The Ordinance gives effect to certain recommendations of a Committee appointed by the East Africa High Commission to investigate anomalies in the Customs Tariff. The Customs Tariff (Amendment, No. 3) Ordinance, 1949, provides for the importation, without payment of customs duty, of goods imported by the Young Men's Christian Association, Mombasa, and the Mission to Mediterranean Garrisons.

The Companies (Amendment) Ordinance.—The Companies (Amendment) Ordinance, which was enacted to give effect to a recommendation of the Board of Commerce and Industry that the Companies Ordinance, 1933, should be amended so as to require every prospectus issued by or on behalf of a company or in relation to an intended company to contain a declaration that the directors and proposed directors accept responsibility for the accuracy of the information and statements in the prospectus.

The Advocates Ordinance.—The Advocates Ordinance, 1949, which was drafted in collaboration with the Law Society of the Colony of Kenya is to consolidate, amend and bring up to date the law relating to advocates. The law on the subject has hitherto been contained in the Legal Practitioners Ordinance (chapter 10), an Ordinance passed as long ago as 1906, and in the Rules of Court (Legal Practitioners) made by the Chief Justice in 1926 under the powers vested in him by the Kenya Colony Order in Council, 1921.

The Income-tax (Amendment) (Relief) Ordinance.—The Income-tax (Amendment) (Relief) Ordinance, 1949, amends the Income-tax Ordinance, 1940, so as to afford an additional measure of relief to old people in receipt of a small income. It was considered that such persons, whether in receipt of earned or unearned income, not infrequently, by reason of their age, have to incur additional expense in procuring assistance which their age renders them unable to provide for themselves.

The Legislation (Application to High Commission) Ordinance.—Although the East Africa High Commission performs many functions of government in Kenya, a reference in an Ordinance or in an instrument made thereunder to the Government of the Colony or to public purposes does not include a reference to the East Africa High Commission or to the purposes of the East Africa High Commission. There are many cases in which it is necessary that this should be so. Accordingly the Legislation (Application to High Commission) Ordinance, 1949, was enacted to confer on the Governor in Council power, by order, to provide that any specific reference to the Government of the Colony or to public purposes occurs in any Ordinance or in any instrument made thereunder shall, to such extent and subject to such modifications as may be specified in the order, be read and construed as including a reference to the High Commission, or the purposes of the High Commission, as the case may be.

The Excise Duties (Amendment) Ordinance.—The Excise Duties (Amendment) Ordinance, 1949, amends the Excise Duties Ordinance, 1935, by adding to the

Schedule to that Ordinance provision for an excise duty to be collected on matches manufactured in the Colony. The reason for this amendment is that the manufacture of matches in the Colony may shortly be commenced and it is necessary for intending manufacturers to know the amount of excise duty which will be levied.

The Industrial Licensing (Amendment) Ordinance.—Since the enactment of the Industrial Licensing Ordinance, 1948, it has become apparent that there were certain defects in that Ordinance. For example, that Ordinance contained inadequate provision for protecting a new industry from uneconomic competition. The Industrial Licensing (Amendment) Ordinance, 1949 (No. 59 of 1949) accordingly inserts a new subsection in section 10 of the 1948 Ordinance which enables the Industrial Licensing Council, at the time of granting a licence, to declare that for a period to be specified, which may not exceed five years, no similar licence shall be granted. A new section 10A is also inserted which enables the Council to make a similar declaration in relation to a licence which has already been granted. The other respects in which the 1948 Ordinance was defective was that, although provision existed for an appeal by any person aggrieved by a refusal of the Council to grant a licence, no provision existed for any appeal by a person aggrieved by the grant of a licence. Section 4 of this Ordinance accordingly amends section 14 so as to provide for this. A consequential amendment was made to section 15 of the 1948 Ordinance which provides for the action to be taken consequent upon a decision of the Appeal Tribunal either to grant or to refuse a licence.

2. NYASALAND.

[*Contributed by* E. J. E. Law, Esq., *Crown Counsel.*]

Thirty-three Ordinances were enacted in 1949, of which nine were of a consolidating character, in that they repealed existing legislation and substituted therefor comprehensive and improved enactments. These Ordinances are:

The Customs Ordinance (No. 1 of 1949).
The Natural Resources Ordinance (No. 2 of 1949).
The Cotton Ordinance (No. 11 of 1949).
The Maize Control Ordinance (No. 12 of 1949).
The Fisheries Ordinance (No. 17 of 1949).
The Immigration (Control) Ordinance (No. 20 of 1949).
The Native Development and Welfare Fund Ordinance (No. 29 of 1949).
The Control of Dogs Ordinance (No. 31 of 1949).
The Wages and Conditions of Employment Ordinance (No. 32 of 1949).

Other important enactments include:

The Adoption of Children Ordinance (No. 13 of 1949), which enables for the first time legal adoptions to be made in the Protectorate. This follows very closely the Adoption of Children Act, 1926 (16 & 17 Geo. V, c. 29).

The Electricity Ordinance (No. 21 of 1949), which empowers Government to undertake the supply of electrical energy in any area, or to issue exclusive licences to any local authority, company or person to undertake such supply, and defines the powers and duties of suppliers of electrical energy.

The British Nationality (Supplementary Provisions) Ordinance (No. 24 of 1949) which enables the Governor in Council to make rules for the imposition and recovery of fees in respect of applications for naturalization made under the British Nationality Act, 1948 (11 & 12 Geo. VI, c. 56).

Two-hundred-and-forty-six Government Notices, containing subsidiary legislation, Orders in Council affecting the Protectorate, and other matters of a legislative nature, were also published during 1949.

3. SOMALILAND.

[*Contributed by* ROGER J. QUIN, ESQ., *Acting Legal Secretary.*]

ORDINANCES, 1949.

TWENTY-SIX Ordinances were enacted in 1949.

The Administration of Criminal Justice (Amendment) Ordinance.—Is mainly intended to remove the power to whip adults from District Courts and vest it solely in the Protectorate Court. This is to implement the wishes of the Secretary of State in respect of restrictions on the award of corporal punishment to adults.

The Arms and Ammunition (Amendment) Ordinance.—Is intended to provide that the decision to issue an arms license to a native shall rest solely with the Governor. It has been felt that in this Protectorate the matter is of too much importance to be allowed to rest with a District Commissioner.

The Somaliland Land (Amendment) Ordinance.—Is designed to introduce into the principal Ordinance a new section forbidding the cutting of growing plants, bushes and trees for use as enclosures around cultivated land. The heavy and indiscriminate cutting of bush for use as "Zariba" is having a serious effect on the vegetation of the Protectorate and cannot be allowed to continue.

The Ports (Amendment) Ordinance.—Is intended to amend the principal Ordinance so that port health procedure at the ports of Berbera and Zeilah is brought into line with that prevailing in other dependencies. Powers are given to an Health Officer to inspect all vessels and any person on board and to prohibit from landing any such person suspected of suffering from or who has been exposed to risk of infection or contagion with any infectious or contagious disease or to cause such person to be landed and quarantined.

The European Officers' Pensions (Amendment No. 2) Ordinance.—Is intended to introduce into the principal Ordinance provisions for the payment of pensions to European Officers dying from the injuries received through acts of violence directed against the Vessel or Vehicle in which they are travelling on duty in time of war or while travelling by air in pursuance of official instructions.

The Non-European Officers' Pensions (Amendment) Ordinance.—Is intended to introduce into the principal Ordinance provisions for the payment of pensions to non-European Officers dying in the circumstances mentioned in the immediately preceding Ordinace.

The Police (Amendment) Ordinance.—Is intended to amend the principal Ordinance by the addition of a provision whereby any person who causes or attempts to cause disaffection amongst the police commits an offence.

The Immigration Restriction (Amendment) Ordinance.—Extends the provisions of the principal Ordinance to immigrants arriving in the Protectorate by air.

The Administration of Criminal Justice (Amendment No. 3) Ordinance.—Is intended to amend the principal Ordinance so that the discriminatory provisions which exist between natives and Europeans will be removed. The result will be that all persons will be treated equally before the Criminal Courts of the Protectorate.

The Children and Young Persons Ordinance.—Is intended to provide machinery for the special treatment of young offenders and the establishment of juvenile Courts and approved schools.

4. UGANDA.

[*Contributed by* W. J. SHERIDAN, ESQ., *Acting Solicitor-General.*]

DURING the year 1949, thirty-six Ordinances were passed, of which twenty-two were amending Ordinances.

The following are the more important enactments:

The African Local Governments Ordinance.—Reconstitutes the system of local governments throughout the Protectorate, providing for separate executive and

deliberative functions. The executive functions are not changed from those at present in force. On the deliberative side, the system of local councils which has gradually been built up over a period of years is put on a regular basis. The Ordinance provides for the establishment of Provincial Councils, District Councils, local committees to advise District Councils, and minor councils in subdivisions of districts.

The Mining Ordinance.—Consolidates the old Ordinance which was enacted in 1935 and amended from time to time, some sections of which have been redrafted so as to bring the law on mining into line with present-day practice. The following are the principal amendments:

(a) "Claims" have been abolished and mining rights now consist only of locations and leases, thereby ensuring that all persons undertaking mining will have to comply with the same standards;

(b) persons carrying on mining or prospecting operations are required to restore the land during the currency of their title, thereby ensuring that the land is left fit for agricultural purposes;

(c) holders of locations and mining leases are required to pay surface rent so as to compensate for the loss of the use of land;

(d) the Governor is empowered by rules to control the importation, export, dealing in, cutting and setting of diamonds.

The Crown Lands (Amendment) Ordinance.—Places the occupation of Crown land in townships and trading centres on a proper basis and replaces the old law with provisions which are not only more comprehensive but also more in line with modern practice. These provisions purport:

(a) to make it unlawful for any person to occupy Crown land in townships and trading centres without a licence or lease, and give natives, irregularly in occupation of such land, an opportunity to legalize their position;

(b) to provide for the issue of township occupation licences subject to certain conditions and expiring on December 31 of the year in which they are issued, and thereafter until the expiration of three months' notice to quit, and to empower the Land Officer to fix the rent payable on such licences;

(c) to empower the Governor to provide, by regulations, for the granting of compensation, on eviction, to natives who are in occupation of Crown land on the coming into force of the Ordinance. Payment of such compensation was not obligatory in the past; and

(d) to provide for a penalty of a fine of Sh. 400/- for unlawful occupation of Crown land. No such provision existed in the past but it is considered that simple criminal proceedings are the most satisfactory way to deal with petty cases that may arise.

The Rent Restriction Ordinance.—Consolidates the old Ordinance which was enacted in 1943, and incorporates the following changes in the law:

(a) increases the standard rent over and above the 1942 level. The formula adopted takes into account the capital value of the site as assessed by the Land Officer and the capital cost of the dwelling house or premises but imposes a maximum of 10 per cent. of the capital cost of the building plus 5 per cent. of the capital value of the site;

(b) provides for the variation of standard rent in certain circumstances;

(c) imposes penal sanction against asking, soliciting, or receiving "Key Money," other than *bona fide* agent's commission or purchase price or premium in connection with leases of seven years or more;

(d) provides certain additional grounds upon which a landlord may eject a tenant;

(e) includes within the meaning of the word "tenant" the widows or members of a deceased tenant.

The Penal Code (Amendment) Ordinance.—Amends the law mainly in the following respects:

(a) by making it an offence punishable with ten years when a person incites another to commit an offence punishable with death, whether or not any action was taken by that other person as a result of the incitement;

(b) by widening the scope of the law with regard to the offence of giving false information to a person employed in the public service;

(c) by making it an offence for any person who, having collected public subscriptions, fails to produce to the District Commissioner or police officer, or fails to publish in a newspaper named by the District Commissioner or police officer, correct accounts of moneys so collected and disposed of;

(d) by bringing the law into line with the law in force in other East African territories and the English law with regard to "provocation" and providing that the retaliatory assault must be of the kind which was committed upon the offender;

(e) by widening the scope of the law with regard to the offence of being suspected of having or conveying stolen property and defining "possession" to include possession in the accused's dwelling house or other place under his control; and

(f) by abolishing corporal punishment in all cases other than in cases of robbery and sexual offences.

The Beer Ordinance.—Regulates the method of brewing non-native beer and provides for the computation and payment of excise duty thereon.

The Workmen's Compensation Ordinance.—Consolidates the law enacted in 1946 with certain modifications as agreed upon at the Conference of Labour Commissioners of the three East African territories. The rate of compensation payable to an injured workman has been generally increased and the following important additions have been made to the law:

(a) provision for the compulsory insurance of employers of small means so as to ensure that such employers are able to meet their liabilities to their workmen under the Ordinance. This provision of the law is made effective by an Order of the Governor in Council; and

(b) provision for the payment of compensation for disablement or death of workmen caused by occupational diseases. The occupational diseases have been set out in the Schedule to the Ordinance.

The Roads Ordinance.—Provides for the protection of roads from various types of encroachments, such as buildings, crops, trees, by-roads and paths, and permits the Crown to remove free of charge road-making materials from an area 50 feet each side from the centre line of the road, termed, in the Ordinance, a "road reserve."

The Cotton (Amendment) Ordinance.—Mainly implements the recommendations of the Uganda Cotton Industry Commission contained in its report published in 1948 in so far as these recommendations are acceptable to Government. The following are the more important recommendations so implemented:

(a) no person other than a native shall carry out the actual weighing of raw cotton purchased from the producer;

(b) no person shall collect unpurchased raw cotton without a licence;

(c) any person authorized by a Native Government or Administration may enter at all reasonable times the premises where raw cotton is being purchased to assist growers to obtain the correct price for their cotton; and

(d) the Governor may prescribe the type of container to be used in all purchases of raw cotton and the tare that may be deducted in respect of such container.

The Trades Disputes (Arbitration and Settlement) Ordinance.—Provides for the establishment of Arbitration Tribunals in connection with trade disputes and

for the settlement of such disputes generally. Special provisions also make for the settlement of disputes in public utility undertakings and in public health, hospital and sanitary services. The former provisions of the Ordinance are based upon the Industrial Court Act, 1919, of the United Kingdom, and provide for a conciliatory machinery for the settlement of trade disputes. The provisions with regard to the public utility undertakings, which for the time being have been limited to Water Services, Electricity Services and Health, Sanitary and Hospital Services, are mandatory and provide that disputes which are not capable of settlement by conciliation shall be referred by the Governor to an arbitration tribunal for settlement. The latter provisions are based upon a Model Ordinance submitted by the Secretary of State.

The Registration and Control of Aliens Ordinance.—Empowers the Governor in Council to make rules to control the movement of aliens and to provide for their registration and deportation. It also seeks to prevent aliens from interfering with the armed forces and industry. The present intention, however, is only to require the aliens to keep the police informed of their addresses.

The Arms and Ammunition (Amendment) Ordinance.—The principal Ordinance was enacted in 1930 and the purpose of the amending Ordinance is to bring the law relating to arms and ammunition more into line with the present day requirements by tightening control and making the illegal possession of arms and ammunition a much more serious offence than in the past.

The Police (Amendment) Ordinance.—Provides for the establishment of a Police Reserve and makes provision for the engagement, calling up, training, discharge, etc. of the members thereof.

The Minimum Wages Ordinance.—Empowers the Central Labour Advisory Board, established under the Uganda Employment, 1946, with the approval of the Governor and on the recommendations of Provincial Boards, also established under the Uganda Employment, 1946, to fix a minimum wage by order applicable to such areas of the Protectorate as may be specified in such order. The Central Labour Advisory Board may, with the approval of the Governor and on recommendation of Provincial Boards increase or reduce a minimum wage by subsequent orders. The Ordinance applies to workmen earning wages not exceeding such amount as may be prescribed by the Governor. The wage so prescribed by the Governor at present is Shs. 40/- per month.

The Lint Marketing Board Ordinance.—The present system whereby the price to be paid to growers for cotton is guaranteed in advance, the fact that this price cannot bear an exact relation to future sales overseas, and the regulation of cotton imports by the Government of the principal purchasing countries made it necessary to have in the Protectorate an organization empowered to purchase lint cotton and cotton seed from ginners and to sell this produce overseas on the most favourable terms obtainable. The main purpose of the Ordinance is, therefore, to establish a Lint Marketing Board replacing the Cotton Exporters' Group which was established under Defence Regulations.

The functions of the Lint Marketing Board are to make arrangements:

(*a*) for the purchase from ginners of lint cotton and cotton seed at prices approved and fixed by the Governor in Council on the recommendation of a price committee the constitution of which shall be subject to the approval of the Governor in Council;

(*b*) for the export and sale of such lint cotton and cotton seed and, in particular and without prejudice to the foregoing:

(*i*) to control and fix, with the approval of the Governor in Council, the price to be paid to growers for their raw cotton;

(*ii*) to arrange for the storage, sale, export and shipping of lint cotton and cotton seed; and

(*iii*) with the approval of the Governor, to enter into any arrangement with the Government of any country, or with any department,

authority or person in any country for, or in connection with, any of the purposes of the Ordinance.

The Ordinance provides for the appointment by the Board of licensed agents to act on behalf of the Board, and restricts the purchase and sale of lint cotton and cotton seed to the Board and the Board's licensed agents. The Board is also given power to deal in Kenya or Tanganyika cotton should the Governments of those territories so desire.

The Medical Practitioners and Dentists Ordinance.—Consolidates the old law and adds several fresh provisions. The following are the more important additions:

(*a*) extension of the privilege of registration free of charge of all medical officers in the public service of Uganda and Kenya, as was the case under the old law, to all medical officers in the public service of Tanganyika and Zanzibar and to serving officers of His Majesty's Forces while residing in Uganda;

(*b*) provision for the licensing of suitable persons as medical practitioners and dentists in areas where there is an insufficient number of persons who are duly entitled to registration under the Ordinance as medical practitioners and dentists, to meet the medical and dental needs of persons in such areas.

5. ZANZIBAR.

[*Contributed by* L. Pelly Murphy, Esq., *Attorney-General.*]

During the year 1949 twenty-six Decrees were enacted. The following are the more important subjects with which they dealt:

Bankers' Books.—Decree No. 10 of 1949 makes statutory provision for the admission in evidence of entries in bankers' books and gives effect locally to the English law on the subject.

Criminal Procedure.—The special provisions contained in the Criminal Procedure Decree relating to the trial of Europeans are abolished by Decree No. 6 of 1949.

Police.—Decree No. 22 of 1949 replaces the previous law governing the Police in the Protectorate with a comprehensive measure based upon similar legislation in the other East African territories. Among the more important new provisions are those dealing with the regulation of public assemblies; those prohibiting members of the Force from membership of Trade Unions and those authorizing the use, in an emergency, of police sent from the mainland territories.

Registration of Business Names.—Registration of business names is made compulsory by a Decree which is similar in terms to legislation enacted in the other East African territories on the same subject.

Stage Plays and Cinematograph.—Decree No. 15 of 1949 replaces with a comprehensive measure the previous existing law on the subject (which was enacted in 1920) and was out of date in some respects). The functions of licensing theatres and of censoring films and plays, hitherto performed by a single board, are now separated and the Decree provides for different authorities for these purposes. The Decree is based on the law in force in Uganda.

Township Councils.—Decree No. 24 of 1949 provides for the amalgamation of the two townships created out of Zanzibar Town and the establishment of one Township Council with wider executive powers than those previously enjoyed by the Councils which existed previously.

VIII. WEST AFRICA.

1. GOLD COAST.

[*Contributed by* A. McKisack, Esq.]

During the year 1949, 43 Ordinances were passed, of which more than one-half were amending Ordinances. The following deserve special mention:

The Gold Coast Library Board Ordinance.—Provides for the establishment of a

fully representative Library Board whose duty it will be to establish, equip, manage and maintain libraries in the Gold Coast.

The Native Authority (Southern Section of Togoland under United Kingdom Trusteeship) Ordinance.—Makes provision for the establishment of Native Authorities in Southern Togoland, and prescribes their powers and duties. The provisions of this Ordinance are similar to those of the other Gold Coast Native Authority Ordinances.

The Native Courts (Southern Section of Togoland under United Kingdom Trusteeship) Ordinance.—Makes provision for the administration of justice in Native Courts in Southern Togoland.

The Agricultural Produce Marketing Board Ordinance.—Establishes a statutory Board and provides for the regulation and control of the marketing and export of agricultural produce..

The Police Force (Amendment) Ordinance and The Prisons (Amendment) Ordinance.—Together make it unlawful for a member of the Police Force or a prison officer to be a member of a trade union other than an association authorized by the Governor in Council. Persons causing disaffection among the members of the Police and Prison Services may be punished. Similar provisions relating to members of the Gold Coast Customs Preventive Service were made in the Customs Preventive Service Ordinance, 1949.

The Mandated and Trust Territories Ordinance.—The principal effect is that every written law in which the expression "Togoland under British Mandate" occurs shall have effect as if there were substituted the expression "Togoland under United Kingdom Trusteeship."

The Trees and Timber Ordinance.—Replaces the former Timber Protection Ordinance, and controls the cutting and removal of trees and timber.

The Unlicensed Guides (Prohibition) Ordinance.—Is designed to control the activities of "pilot boys," touting motor drivers, common prostitutes and other undesirable persons in the streets of towns.

The Rents (Control) (Amendment) Ordinance.—Makes it an offence for any person to demand, as a condition of a grant of tenancy, more than one month's rent in advance in the case of a monthly or shorter tenancy, or the payment in advance of more than three months' rent in other cases.

The Labour (Amendment) Ordinance.—Provides, *inter alia,* for the insertion of a new sub-part dealing with termination of agreements, and for new sections relating to Labour Health Areas.

2. NIGERIA.

[*Contributed by* Lionel Brett, Esq., *Crown Counsel.*]

Of the twenty-three Ordinances passed in Nigeria during 1949 four are concerned with the introduction of new measures relating to development. The Regional Development Boards Ordinance, repeals the Nigeria Local Development Board Ordinance, 1945, and places development on a regional basis. It establishes Regional Development Boards for the Northern, Western and Eastern Regions and for the Colony. The Regional Boards, other than the Colony Board, are to consist of not less than five members to be appointed by the Chief Commissioner for the Region concerned. In the Northern Region three of the members so appointed must be Unofficial Members of the Northern Regional Council, in the Western and Eastern Regions three members must be Unofficial Members of the appropriate House of Assembly. Where the Board consists of more than five members, the Unofficial Members must be in the majority. The Colony Development Board shall consist of five members appointed by the Commissioner of the Colony, three of whom are to represent each Division in the Colony. The moneys standing to the credit of the Nigeria Local Development Board are to be transferred

to the Government and re-allocated to the Northern, Western and Eastern Boards in such proportion and upon such terms and conditions as the Governor may determine. Similar provisions enable rights, interests, obligations and liabilities of the Local Development Board under any contract or instrument and any undertaking to be transferred to a Regional Board specified by the Governor. Provision is made with regard to funds and resources of the Boards and enables them to make advances and/or grants for schemes of development. The total yearly expenditure is restricted in the case of the Northern, Western, and Eastern Boards to £100,000 and in the case of the Colony Board to £50,000, except where prior approval has been obtained from the appropriate Chief Commissioner or the Commissioner of the Colony.

Groundnuts.—The Nigeria Groundnut Marketing Ordinance which came into operation on April 5, 1949 establishes a corporate body known as the Nigeria Groundnut Board. The members consist of a chairman, two official members, and three Nigerian unofficial members normally resident in the Northern Region; they hold office for three years, subject to the Governor's pleasure. Appointments are in the hands of the Governor, who also appoints a Secretary to the Board. Section 16 provides that the general functions of the Board are to secure the most favourable arrangements for the purchase and grading for export and for the export and sale of the produce subject to the Ordinance, and by means of its allocation of funds to the Production Development Board to promote the development of the producing industries concerned and for the benefit and prosperity of the producers and the areas of production. The Board's specific powers include price control and the power to control by licence or otherwise the activities of all persons or classes of persons connected with the sale and purchase for export of produce subject to the Ordinance.

The purposes to which the Board may apply the funds at its disposal include the stabilization of prices, the cost of scientific research, and expenditure on the development of the producing industries.

Part V establishes the Groundnut Representative Committee to advise the Board, and Part VI the Northern Regional Production Development Board to plan the expenditure of, and to expend, any funds accruing to it from the Board or otherwise for the development of the producing industries concerned, and for the benefit and prosperity of the producers and the areas of production.

Part VII forbids the export of produce subject to the Ordinance except by Licensed buying agents acting on behalf of the Board or by other persons duly authorized by the Board to act on its behalf.

Miscellaneous.—The Nigeria Oil Palm Produce Marketing Ordinance and the Nigeria Cotton Marketing Ordinance establish Marketing Boards on similar lines. Other Ordinances include the Manillas Prohibition Ordinance forbidding the use of manillas as currency, the manilla being a horseshoe-shaped piece of metal in circulation as money in parts of the Eastern Provinces, the Widows and Orphans Pension (Palestine Ex-Officers) Ordinance, the British Nationality (Offences and Fees) Ordinance; and a number of amending Ordinances.

The Education Regulations make provision chiefly with regard to the examination, registration, and grading of teachers, and their removal and, the keeping of records and furnishing of returns. There are also six sets of Emergency Power Regulations made under the Emergency Powers Order in Council, 1939, in connection with the riots which took place in the Eastern Region.

3. SIERRA LEONE.

[Contributed by the Acting Attorney-General.]

EXCLUSIVE of two Appropriation Ordinances, twenty-seven Ordinances were passed by the Legislative Council in 1949; ten were original and seventeen were amending Ordinances.

Among the original Ordinances:

The Sierra Leone Produce Marketing Board Ordinance.—Establishes a Board of that name to control the marketing and export of agricultural produce. The products which are controlled by the Board are enumerated in a Schedule, which may be amended by the Governor-in-Council. Controlled products may only be exported by the Board or with its permission; among its other functions the Board can control the prices of these products. The Board's funds in no way form part of the revenue of Government.

The Motor Vehicles (Third Party Insurance) Ordinance.—Requires for compulsory third party insurance in respect of motor vehicles. It is to come into force on a date to be fixed by the Governor. The Ordinance closely follows the relevant sections of the Road Traffic Act, 1930 and 1931, and Nigeria Ordinance No. 53 of 1945.

The Matrimonial Causes Ordinance.—Follows to a large extent the Matrimonial Causes Ordinance, 1931, of Kenya, and, like that Ordinance, is based on the Supreme Court of Judicature (Consolidation) Act, 1925 and the Matrimonial Causes Act, 1937. It relates only to marriages in what may be described as the Christian form, and only departs from the Kenya and United Kingdom legislation referred to, in that insanity is omitted as a ground for divorce, decrees can be made absolute three months after the decree *nisi* and the Attorney-General is substituted for the King's Proctor.

The Rural Area Ordinance.—Provides a new form of local government for the rural areas of the Colony. The smallest units of local government are village committees, the members of which are elected annually. Each village committee has a right to nominate one or more of its members to a rural district council, which in turn nominates a member to the Rural Area Council. The President of the Rural Area Council is a government officer appointed by the Governor. Provision is made for the preparation of estimates of revenue and expenditure by the village committees and rural district councils, the former having power to impose a village improvement cess and the latter to impose rates—all, however, being subject to the approval of the Rural Area Council. In general the legislation has been based on the Freetown Municipality Ordinance (Cap. 91) as amended by Ordinance No. 4 of 1948.

The Bills of Sale Ordinance.—Adopts the English law relating to bills of sale, and reproduces, substantially, the provisions of the Bills of Sale Act, 1878 and the Acts of 1882, 1890 and 1891. The Ordinance enacts that all bills of sale, whether absolute or given or made as security for the payment of money, shall be attested by a solicitor and not by two creditable witnesses as is required by English law.

Of the amending Ordinances:

The Minerals (Amendment) Ordinance.—Has as its principal object the empowering of the Chief Inspector of Mines to make orders requiring mining lessees and holders of licences under the Principal Ordinance (Cau. 144) to rehabilitate the land on which mining and prospecting practices have been carried out and to take reasonable precautions to combat soil erosion. This follows a similar provision in Nigeria.

The Imperial Statutes (Law of Property) Adoption (Amendment) Ordinance.—Finally abolishes in Sierra Leone, as was done in the United Kingdom by the Law Reform (Married Women and Joint Tortfeasors) Act, 1935, a husband's liability for his wife's torts or her ante-nuptial debts and contracts.

The Young Persons and Children (Amendment) Ordinance.—Amends the Principal Ordinance with the following objects:

(*i*) to permit probation officers and other authorized persons (in addition to those who already have this power) to bring children and young persons before a juvenile court;

(*ii*) to enable a juvenile court to require the parent or guardian to enter into a recognisance to exercise proper care and guardianship over a child or young person who is before the court;

(*iii*) to provide for the supervision of children and young persons by probation officers;

(*iv*) to permit parents and guardians to bring children and young persons before a juvenile court;

(*v*) to provide for the punishment of people who help children and young persons to escape from any person or institution to whose care they have been committed;

(*vi*) to provide for the establishment of Remand Homes;

These amendments are based on the Children and Young Persons Acts, 1933 and 1938.

IX. INDIA.

I. CENTRAL LEGISLATURE.

[*Contributed by* K. V. K. SUNDARAM, ESQ., I.C.S., *Secretary to the Government of India, Law Ministry.*]

THE Constituent Assembly of India, functioning in its dual capacity of the constitution-making body and the central legislature for the country, passed during 1949 as many as seventy-three Acts, besides the Constitution of India. Of the latter, which received assent of the President of the Constituent Assembly on November 26, 1949, and came into operation exactly two months later on January 26, 1950, this is not the place to write in any detail. It will require a whole article to give even a broad outline of the 395 sections and 8 schedules in which the chosen representatives of the people have, within a period of two years, formulated the Constitution for the "Sovereign Democratic Republic of India."

Amendments of the Provisional Constitution.—Even as the making of the new Constitution was in progress, the Constituent Assembly had to make certain amendments urgently required in the Government of India Act, 1935, and the India (Central Government and Legislature) Act, 1946. It will be recalled that these two Acts had been adapted under the provisions of the Indian Independence Act, 1947, by order of the Governor-General so as to provide a workable Dominion Constitution for the interim period.

The Government of India Act was amended no less than four times in 1949 by the Constituent Assembly. A few changes were made in the Legislative Lists of which the most important was the insertion in the Concurrent Legislative List of three new entries relating, respectively, to (i) trade and commerce in, and the production, supply and distribution of, the products of industries brought under central control, (ii) the custody, management and disposal of evacuee property, and (iii) the relief and rehabilitation of displaced persons. The two latter items were intended to facilitate Central legislation in regard to the two major problems created by mass migration on a stupendous scale as a result of partition.

In Constituent Assembly Act No. 1, special provision was made for the administration of the smaller Acceding States, the Rulers of which had surrendered all their authority, jurisdiction and powers to the Dominion of India, either by forming them into Chief Commissioners' Provinces or by merging them in neighbouring Governors' Provinces. This was a necessary constitutional step towards the formation of the new States of India under the Constitution.

Another important Act designed to facilitate the transition from the Dominion Constitution to the Republican Constitution was Constituent Assembly Act No. V which abolished the jurisdiction of the Privy Council in respect of Indian appeals and conferred a corresponding jurisdiction on the Federal Court of India. Between October 10, 1949, when this Act came into force, and January 26, 1950, when the new Constitution came into force, it was made possible for the Privy

Council to dispose of as many pending cases as they could. All the other appeals and petitions pending before the Privy Council were directed to be transferred to the Federal Court.

Ordinary Legislation.—Sixty-seven Acts were passed during the year by the Constituent Assembly functioning as the Central Legislature of India.

Indian States.—The accession of practically all the former Indian States (Hyderabad and Kashmir being the two exceptions) on all subjects mentioned in the Federal and Concurrent Lists of the Government of India Act, the merger of some of the smaller States in Governors' Provinces, and the setting up of others as Chief Commissioners' Provinces, very considerably extended the territorial jurisdiction of the Central Legislature. This necessitated a number of Acts designed to extend the laws in force in what used to be known as "British India" to the former "Indian States" which had now become a part of the Dominion of India.

Thus Acts 3, 18,* 31, 36, 37, 62 and 67* provided for the extension to all the Acceding States of the Indian Emigration Act, sundry Acts relating to merchant shipping (including the U.K. Merchant Shipping Acts of 1894 to 1938), lighthouses, carriage of goods by sea and bills of lading, the Indian Wireless Telegraphy Act, the Indian Passport Act, the Registration of Foreigners Act, the Cinematograph Act, and a few taxation laws including the Indian Income-tax Act. Act 59 provided for the extension of practically all the main Central Acts to the State areas merged in the Governors' Provinces or established as separate Chief Commissioners' Provinces. This process of extending, with necessary modifications, the old "British Indian" Central Acts to the former State territories is likely to be carried on until a fair measure of uniformity is achieved. In fact, article 44 of the Constitution lays down as a directive principle of State policy that "the State shall endeavour to secure for the citizens a uniform civil code throughout the territories of India."

Partition Problems.—The legal and social problems arising out of the partition of the country continued to receive the attention of the Legislature. The Influx from Pakistan (Control) Act 23* introduced a permit system for regulating the admission into India, mainly from the West, of nationals of Pakistan. The uncontrolled immigration in large numbers raised difficult administrative problems in regard to the resettlement of displaced persons and the maintenance of public order in several localities.

The Payment of Taxes (Transfer of Property) Act 22* had to be passed as a safeguard against the loss of public revenues caused by emigrants to Pakistan leaving India after disposing of all their property. It was found in a large number of cases that emigrants had gone away without paying taxes already due from them and there was no property in India from which those taxes could be recovered. The Act accordingly prohibited the registration of transfer deeds by emigrants or intending emigrants unless the appropriate tax officer's certificate showed that the emigrant's liability, if any, for Income-tax, excess profits tax and business profits tax had been discharged in full or that satisfactory arrangements had been made for discharging those liabilities. The Act also provided for the recovery of taxes from the transferee wherever property had been transferred without such a certificate in evasion of the law.

The Displaced Persons (Legal Proceedings) Act 25 was designed to give relief to displaced persons in civil proceedings brought against them before creditors. It empowered courts to exercise their discretion in favour of displaced persons by ordering stay of execution of money decrees, directing payment in suitable instalments, postponing action in insolvency, etc. This Act supplemented Act 47 of 1948 which had a similar objective. Both Acts are of temporary duration.

* Acts marked with an asterisk were preceded by Ordinances containing more or less similar provisions.

A grave social problem created in the aftermath of partition was the abduction, on both sides of the newly created frontier, of several women and children and their consequent separation from their relatives who either stayed behind in one country or left for the other. An agreement was reached between the Governments of India and Pakistan that every effort should be made in both countries to recover such persons and restore them to their relatives on the other side of the frontier. The Abducted Persons (Recovery and Restoration) Act 65* was designed to facilitate implementation of this agreement so far as India was concerned. It invested the Provincial Governments and the police with all necessary powers. *Inter alia* it provided for the establishment of camps for the reception and detention of abducted women and children subsequent to their recovery and until arrangements were made for handing them over to authorized persons in Pakistan.

The Inland Steam-Vessels (Amendment) Act 58 was also passed in pursuance of an inter-Dominion agreement for according recognition on a reciprocal basis to the licences of inland steam-vessels and the certificates of their crew issued by either Dominion, in order to ensure the uninterrupted working of inter-Dominion river services in east and west Bengal and Assam.

Arms and Explosives.—Two short Acts fall under this head. Act 47 amends the Arms Act of 1878 placing, for all purposes of regulation and control, import and export of arms and ammunition by air on the same footing as import and export by sea or by land. A few instances of "gun-running" by air brought to light this lacuna in the law. The Explosives (Temporary Provisions) Act 55 provided for the relaxation of the ordinary safety rules and regulations under the Explosives Act of 1884 in order to expedite and facilitate dumping in the sea of explosives and inflammable substances accumulated during the last war.

Cinematographs.—The Cinematograph Act of 1918 was amended twice during the year. The first (Act 39) introduced the system of certifying cinematograph films for public exhibitions in two categories instead of only one. It provided for the issue of "A" certificates to films considered fit for public exhibition but only to adults, and of "U" certificates to films considered fit for unrestricted public exhibition. The second amending Act 62 provided for the constitution of a central authority to examine and certify films. When this authority is constituted it will supersede the existing Provincial Boards and introduce uniform standards of film censorship throughout the country. The Act also provided for the extension of the principal Act of 1918 to all the States which had acceded on the subject.

Companies.—By far the most important measure of company law passed in recent times is the comprehensive Banking Companies Act 10. Experience had shown that the special provisions in one short chapter of the Indian Companies Act of 1913 were altogether inadequate for regulating the growth and development of banking companies on sound lines. Lack of proper statutory control had resulted in several banks coming to grief from time to time and causing serious loss to innumerable small depositors. The Act is designed to remedy this unsatisfactory state of affairs and provide the necessary safeguards and controls with a view to protecting the interests of depositors. A comprehensive system of licensing is introduced and the Reserve Bank of India is vested with wide powers of superintendence and inspection.

The Banking Companies (Legal Practitioners' Clients' Accounts) Act 46 is a short Act designed to restrict the liability of banking companies in regard to accounts opened by legal practitioners for their clients' moneys.

Industrial disputes between banking or insurance companies and their employees were the responsibility of the Provincial Governments under the Industrial Disputes Act of 1947; but this was found to be unsatisfactory in the case of companies with branches and establishments in more than one Province. Such companies had to maintain a measure of uniformity as regards wages, allowances

and other conditions of employment. The industrial disputes between them and their employees had, consequently, to be resolved on an all-India, rather than a local or provincial, basis. The Industrial Disputes (Banking and Insurance Companies) Act 54* was accordingly passed, placing all such disputes within the executive responsibility of the Central Government. That Government was made the sole Authority for referring them to adjudication, inquiry or settlement.

By the Public Companies (Limitation of Dividends) Act 30*—a temporary measure expiring on March 31, 1950—the dividends of public companies were limited to 6 per cent. of the paid up capital or the average of the dividends distributed during the two financial years 1946-47 and 1947-48, whichever was higher. The object of the Act was to combat the inflationary tendencies created by high dividends and to help in the diversion of excess profits into development channels.

Criminal Law and Procedure.—Five Acts fall under this head. The Code of Criminal Procedure (Amendment) Act 9 amends section 488 of the Code (relating to the award by magistrates in summary proceedings of maintenance to a deserted or neglected wife) so as to provide that if a husband has contracted another marriage or keeps a mistress, that shall be just ground for the wife's refusal to live with him.

The Code of Criminal Procedure (Second Amendment) Act 15 amends the provisions relating to the issue of commissions for the examination of witnesses in criminal proceedings when such witnesses reside in the United Kingdom or any British possession, or in the Union of Burma, or in an Acceding State or tribal area to which the Code does not extend.

The Criminal Law (Removal of Racial Discriminations) Act 17, as its title indicates, removes certain existing discriminations in favour of Europeans and Americans in the Criminal law of the Provinces of India. The Penal Servitude Act of 1855 and the European Vagrancy Act of 1874 are repealed, and all special provisions in the Code of Criminal Procedure, prescribing a different procedure for cases concerning Europeans and Americans, are omitted.

Lastly, the Indian Penal Code and the Code of Criminal Procedure (Amendment) Act 42 raises the age of consent by a girl to sexual intercourse from 13 to 15 in intra-marital cases, and from 16 to 18 in extra-marital cases. Along with this Act should be mentioned the Child Marriage Restraint (Amendment) Act 41 which raises the minimum age of marriage for girls from 14 to 15, and made contraventions of the Act punishable with simple imprisonment extending to three months and also with fine. Both these Acts have the distinction of being sponsored in the Legislature by private members.

Delhi Hotel Accommodation.—The enormous growth of population in the capital city, and in particular the increase in the number of foreign embassies and legations on the one hand and government offices on the other, placed such a strain on the available hotel accommodation of the better class that the need for control was keenly felt. The war-time control measures had been allowed to lapse soon after the termination of hostilities. The Delhi Hotels (Control of Accommodation) Act 24 was passed by the Legislature in April providing in the first instance, for the control of accommodation of the five leading hotels of Delhi. It enables the Government to reserve, and allot to its own nominees (mainly diplomatic personnel and officers of Government), one-fourth of the accommodation in each of these hotels at controlled rates.

Essential Commodities.—The Essential Supplies (Temporary Powers) Act of 1946 which practically continued the war-time powers of control over the production, supply and distribution of certain essential commodities, including foodstuffs, cotton textiles, coal, iron and steel, was amended twice during the year. Act 19* stiffened the penal provisions in the case of offences under control orders relating to foodstuffs and cotton textiles, while Act 49* brought raw cotton and cotton-seed

within the scope of the Act by listing them as essential commodities, and "for the avoidance of doubt" defined coal as including coke and other derivations of coal.

Finance.—The main features of the annual Finance Act 14 were the discontinuance of the salt duty, abolition of the tax on capital gains and some reduction in the rate of Income-tax in the lower income groups and in the rate of Super-tax in the higher income groups. The inland postage rate for letters was increased from 1½ as. to 2 as., but at the same time the surcharge on letters and post cards carried by inland air-mail was abolished.

The Indian Tariff (Amendment) Act 1 gave effect to the General Agreement on Tariffs and Trade, the protocol for the provisional application of which was signed on behalf of India on June 8, 1948. Act 5 extended the life of the Protective Duties Act of 1946 up to March 31, 1951, while the Protective Duties (Miscellaneous Provisions) Act 12 extended the date of expiry of those duties in regard to certain industries, notably sugar, and authorized the imposition of protective duties on pickers used in textile industries and batteries for motor vehicles. The aluminium industry was given a considerable measure of protection up to May 14, 1952 by the Indian Tariff (Second Amendment) Act 43.

Although the Government of India Act. 1935, provided for the payment to the Governor-General of a sumptuous salary of Rs.2,50,800 per annum, H. E. Sri. C. Rajagopalachari, the first and last Indian Governor-General, agreed to forego nearly three-quarters of it, and had it reduced to Rs.66,000 per annum. By the Governor-General's Salary (Exemption from Taxation) Act 16*, the Legislature exempted this much-reduced salary of the Governor-General from Income-tax and Super-tax.

Government Securities.—The Public Debt (Central Government) Amendment Act 6 made the provisions of the principal Act of 1944 applicable also to securities issued by the various Provincial Governments. This was rendered possible by resolutions of all the Provincial Legislatures agreeing to the Central legislation: *vide* section 103 of the Government of India Act, 1935.

Hindu Law.—The Hindu Marriages Validity Act 21 was sponsored in the Legislature by a private member. It enunciates the rule that no marriage between Hindus (which term is defined to include persons professing the Sikh or Jaina religion) shall be deemed to be invalid, or ever to have been invalid, by reason only that the parties belonged to different religions, castes, sub-castes or sects. Such inter-caste marriages have been steadily increasing in numbers in recent times, but where the parties had not resorted to the Special Marriage Act for the purpose, the validity of such marriages was not beyond doubt.

Merchant Shipping.—Although the office of Director-General of Shipping has been in existence since about 1945, it was not recognized in the Merchant Shipping Act or the Lighthouse Act, both of which conferred divers powers and functions on the Central Government. The Merchant Shipping and Lighthouse (Amendment) Act 52 gave statutory recognition to the office, and authorized the Central Government to delegate its powers and functions under the two principal Acts to the Director-General to such extent as it thought fit. The delegation will facilitate prompt disposal of the ever increasing volume of administrative work connected with merchant shipping and lighthouses, done mainly at Bombay where the Director-General has his office.

The next Act 53, which inserts a single section entitled "Seamen's employment offices for the supply of Seamen" in the Indian Merchant Shipping Act of 1923, is an important measure from the seamen's point of view. It empowers the Central Government to establish seamen's employment offices at the various ports for the purpose of engaging or supplying seamen for merchant ships, and generally for regulating the supply of maritime labour. Provision is to be made by rules for the constitution of advisory boards to help the employment offices in their task. At any port where an employment office is in existence, it will have the monopoly of engaging and supplying seamen. It may be mentioned that since

the war the number of seamen seeking employment has been much in excess of the demand, and this had led to corruption in the ports and unsatisfactory conditions of engagement for seamen in general.

Police.—With the increase in the number of centrally administered areas called "Chief Commissioners' Provinces," it became necessary to constitute more than one such Province into a general police district with a single police force having jurisdiction over the whole of that district. Since the Police Act of 1861, which was the existing law in all these areas, did not permit such an arrangement, being intended mainly for the much larger Governors' Provinces, the Police Act 64 was enacted to provide for it.

Before August 15, 1947, the Crown Representative was maintaining a Reserve Police force at Neemuch in order to assist the numerous Indian States in the upkeep of law and order during the war period when their own armed forces were employed elsewhere. With the lapse of paramountcy, this Reserve Police force reverted to the Central Government and was maintained by it more or less on the same lines, and for the same purposes as before, but without regular legal backing, since the law made by the Crown Representative in that behalf had lapsed with him. The Central Reserve Police Force Act 66 was accordingly passed regularizing the constitution and the continued functioning of the force.

Since platoons of the Provincial Armed Constabulary belonging to the United Provinces were functioning in certain other Provinces, it became necessary to provide in Act 4* that the Provincial Act and rules by which they would otherwise have been governed continued to apply even when they were serving outside their home Province.

Professions.—The Chartered Accountants Act 38 is an important landmark in the history of the accountancy profession in India. Until then, by virtue of an odd section in the Indian Companies Act of 1913, the Central Government was regulating the profession in a superficial and inadequate manner under rules bearing the curious title of Auditors' Certificates Rules, 1932. A register of Accountants was maintained under these Rules. The new Act places the profession on a proper, statutory basis. An Institute of Chartered Accountants is established as a body corporate, consisting of all members of the profession entered in its Register. Provision is made for the constitution of a Council of the Institute charged with the management of its affairs and the task of maintaining proper standards of professional conduct, discipline and qualifications. The Act makes it obligatory for all public companies to have their accounts audited by "chartered accountants," i.e. persons who are registered members of the Institute and hold certificates of practice from the Council.

Railways.—The amendments made by Act 56 in the Indian Railways Act of 1890 fall into four groups. Section 41 of the principal Act relating to the complaints that may be brought before the Railway Rates Tribunal against a railway administration for giving undue preference or charging at unreasonable rates is revised by section 5 of the amending Act. The revised section makes it clear that in deciding whether a lower charge amounts to an undue preference, the Tribunal may take into consideration whether it is necessary in the interests of the public—a very relevant consideration where practically all the railways have been nationalized and the profit motive is not the predominant one. The second group of amendments attempt to define and restrict the liability of railways as carriers of goods and animals in divers circumstances, and to standardize and simplify the forms of contracts of carriage which the railways may offer to the public. The third relates to the appointment, powers and procedure of Claims Commissioners who are to decide all claims for compensation arising out of accidents to trains. Lastly, the penalty for transferring a season ticket or any half of a return ticket is increased with a view to check these malpractices by which the railways are defrauded of considerable sums in the aggregate.

The Railways (Transport of Goods) Amendment Act 11 extended the life of the principal Act of 1947 by one year up to March 31, 1950. Although the trans-

port position had improved considerably, the system of priorities introduced during the war period and continued by the principal Act had to be maintained for some time longer in respect of certain essential commodities.

Seaward Artillery Practice.—While the Manœuvres, Field Firing and Artillery Practice Act of 1938 made adequate provision for clearing ranges on land for the various purposes indicated in the title of the Act, and for the assessment and payment of compensation to persons injuriously affected by the manœuvres, etc., there was no corresponding law in regard to seaward artillery practice. This lacuna is filled by the Seaward Artillery Practice Act 8, the provisions of which are naturally similar to those of the Act of 1938.

Tea.—The Central Tea Board Act 13 replaces the Indian Tea Cess Act of 1903 which was due to expire on March 31, 1949. A reconstituted Central Tea Board succeeds to the assets and liabilities of the Indian Tea Market Expansion Board which was functioning for nearly half-a-century under the old Act. It is a fairly representative, if large, body consisting of a Chairman nominated by the Central Government and thirty-three other members. The new Board, as the old, is financed by a cess, in the shape of a customs duty, levied on tea exported from India at the prescribed rate not exceeding Rs. 2 per 100 lb., and its functions are to take measures for the benefit or development of the tea industry.

Wireless Telegraphy.—The Indian Wireless Telegraphy (Amendment) Act 31, besides extending the principal Act of 1933 to all the Acceding States, increased the maximum penalty for unauthorized possession of wireless transmitters to 3 years' imprisonment and fine.

Ordinances.—Thirty-three Ordinances were promulgated during the year by the Governor-General under section 42 of the Government of India Act, 1935. Since they were all emergency measures of temporary duration not exceeding six months, and since most of them were replaced or intended to be replaced by Acts of the Central Legislature, it is unnecessary to give a summary of their content.

* Acts marked with an asterisk preceded by Ordinances containing more or less similar provisions.

2. BIHAR.

[*Contributed by* K. RAHMAN, ESQ., B.A. LL.B. *Secretary to Government.*]

TWENTY-THREE Acts were enacted during the year, 1949.

Mica.—Act No. 1 extends the life of the Bihar Mica Act, 1947, indefinitely.

Waqfs (Charitable Endowments under the Muhammadan Law).—Act No. 2 makes the Mutawallis eligible for appointment to the first Majlis and increases the strength of the first Majlis from 9 to 11.

Additional Commissioners.—Act No. 3 delegates judicial powers to Additional Commissioners so as to relieve the Commissioners of this work and enable them to devote more attention to important administrative matters.

Bakasht Disputes.—Act No. 4 delegates the powers of the State Government under the parent Act to Officers not below the rank of Additional District Magistrates, and secures finality of the orders passed by officers in the matter of appointment of the Chairman and members of Boards.

Public Order.—Act No. 5 extends the life of the Bihar Maintenance of Public Order Act, 1947, till March 31, 1950.

Taxation.—Act No. 6 removes certain defects in the Bihar Sales Tax Act, 1947, and introduces a number of provisions on the lines of similar provisions introduced in other States. It provides for increase in the rate of tax and makes it more elastic. Act No. 8 entrusts the Department of Commercial Taxes with the administration of the Bihar Motor Spirit (Taxation on Sales) Act, 1939. Act No. 7 removes the conflict between section 3 and the proviso to section 5 of the Bihar

Agricultural Income-tax Act, 1948, and provides for the revision of orders passed by an Agricultural Income-tax Authority. Act No. 9 fixes the rates of Agricultural Income-tax and levies a Super-tax on agricultural incomes exceeding Rs. 25,000/- for the financial year 1949-50. Act No. 10 fixes the rates of Sales tax for the year 1949-50.

Mining Settlements and Mines Boards.—Act No. 11 empowers the Jharia Mines Board of Health to impose a latrine tax on holdings for meeting expenses on sanitary services. Act No. 13 increases the labour representation on the Hazaribagh Mines Board.

Forests.—Act No. 12 validates the service of all notices under section 14 of the Bihar Private Forests Act.

Tenancy.—Act No. 14 proposes to secure to the village headmen and *raiyats* the enjoyment of their existing rights, both statutory and customary, and to ameliorate their conditions, where necessary.

Excise.—Act No. 15 enhances the limit of punishment for offences under the Bihar and Orissa Excise Act, 1915, and empowers the Collector or Superintenent of Excise to impose a composition fee up to Rs. 500/-.

S.S. "Narayani" Disaster.—Act No. 16 provides for the constitution of a Commission to investigate into the causes of the S.S. "Narayani" Disaster which occurred in the Ganges river at Patna on November 18, 1948.

Bodh Gaya Temple.—Act No. 17 provides that the Bodh Gaya Temple (a shrine dedicated to Lord Buddha) and its management shall vest in a committee consisting of Buddhists and Hindus appointed by Government.

Zamindaris and Estates.—Act No. 18 provides for the acquisition of Zamindaris by the State on payment of compensation to the proprietors and tenure-holders with a view to eliminate middlemen between the State and tillers of the soil. Act No. 21 proposes to empower Government to assume the management of estates and tenures in the interest of all concerned and to give impetus to the Grow More Food Programme.

Civil Disabilities.—Act No. 19 removes the disabilities which are imposed by social custom and usage on certain classes of the Hindu Community.

Medical.—Act No. 20 seeks to regulate the grant of Indian Medical qualifications and to prevent the assumption of bogus titles similar to medical degrees by unscrupulous persons.

State Aid to Industries.—Act No. 22 simplifies the procedure of making advances under the Bihar and Orissa State Aid to Industries Act, 1923, to persons belonging to the scheduled castes and backward classes.

Seraikela and Kharsawan.—Act No. 23 extends certain Central and Provincial Laws to the areas comprised within the States of Seraikela and Kharsawan which have merged finally with Bihar.

Ordinances.—Ten Ordinances were made and promulgated by His Excellency the Governor of Bihar under sub-section (I) of section 88 of the Government of INDIA Act, 1935, during the year under review:

Ordinance No. I was later in the year enacted as an Act of the State Legislature-Bihar Act No. III of 1949—the provisions of the two being identical.

Ordinance No. II was later declared *ultra vires* by the Patna High Court and was replaced by Ordinance No. IV of 1949.

Ordinance No. III of 1949 provides for the administration of evacuee property in the State. It was, however, superseded by the Administration of Evacuee Property Ordinance, 1949 (Ordinance No. XXVII of 1949).

Ordinance No. IV provides for preventive detention, imposition of collective fines, control of meetings and processions, imposition of censorship, requisitioning of property, etc., for security purposes.

Ordinance No. V makes a formal amendment in Ordinance No. IV of 1949.

Ordinance Nos. VI and VIII validate past actions taken under the Bihar Buildings (Lease, Rent and Eviction) Control Act, 1947, and the Bihar Essential

Articles Control (temporary Powers) Act, 1947, respectively, as they contained provisions which were affected by the judgment of the Federal Court which declared similar provisions of the Bihar Maintenance of Public Order Act, 1947, to be *ultra vires*.

Ordinance No. VII gives effect to the decision of the Central Government regarding enforcement of measures on an all-India basis to regulate the production, distribution and supply of jute manufactures.

Ordinance No. IX provides for the prevention of forward trading in raw jute and jute manufactures.

Ordinance No. X raises the present rate of cess on sugar cane to thirty-six pies per maund from twenty-four pies per maund for development of roads and provision of irrigation facilities.

Regulation.—One Regulation, viz., the Santal Parganas Justice (Amendment) Regulation, 1949, was made by His Excellency the Governor under section 92(2) of the Government of India Act, 1935, during the period under review.

The Regulation makes certain amendments in the Santal Parganas Justice Regulation, 1893, so as to give certain judicial powers to the Additional Deputy Commissioner of the Santal Parganas.

3. BOMBAY.

[*Contributed by* SHRI J. R. DHURANDHAR, *Secretary to the Government of Bombay.*]

DURING 1949 the Bombay legislature passed 63 Acts which, having received the assent of the Governor or the Governor-General, as the case required, became law.

Improvement of the Statute Book.—The Bombay Repealing and Amending Act (No. 53) repeals certain enactments which are spent or have otherwise become unnecessary or have ceased to be in force. It also carries out certain formal amendments and corrects a few grammatical and minor printing mistakes.

Municipal Boroughs.—The Bombay Municipal Boroughs (Amendment) Act (No. 36) amends the Act of 1925 by providing certain disqualification for councillors. It also places a duty upon municipalities to makes provision for disposing of night-soil and rubbish and, if so required by Government, converting it into compost manure. The Act also enables municipalities to construct, establish and maintain homes for the disabled and homeless paupers.

The Bombay District Municipal (Amendment) Act (No. 52) incorporates in an Act of 1901, amendments similar to those mentioned above as made in the Act of 1925.

Municipal Corporations may now be created for certain important cities in the Province of Bombay (No. 59).

Village Panchayats.—Two amending Acts deal with village Panchayats. The first (No. 4) allows collectors to increase the maximum term of these bodies to five years in the aggregate. It will not be necessary to hold by-elections to fill vacancies occurring within four months of the expiry of the term of a Panchayat. A village Panchayat may in the future collaborate with other local bodies in matters of common interest. Further, Provident Funds are established for the employees of Panchayats and for the payment of grants to every Panchayat on the basis of the revenue receipts of the previous year.

The second (No. 45) makes consequential amendments in view of the repeal of the Bombay Primary Education Act, 1923, by the similarly named Act of 1947. It also seeks to eliminate the delay which occurs in establishing Pauchayats.

Local Boards.—There are two amending Local Boards Acts. The first (No. 10) makes the payment of octroi a personal liability, enforceable in law by way

of a suit. It also enables an officer of a Local Board in certain circumstances to enter a vessel carrying goods leviable with octroi and to take steps for the recovery of octroi dues. The Act also sanctions to each district local board grant-in-aid equal to 15 per cent. of the ordinary land revenue realized during the previous revenue year in the district excluding the area subject to the jurisdiction of the municipalities and village Panchayats. The Act further provides for disqualification of a member of a Local Board who participates in any transaction of loan with any officer or servant of the Board; for enabling a Judge, in the case of an election dispute owing to an equality of votes, to determine it by the addition of one vote by lot drawn in his presence; and for presuming the grant of leave of absence applied for by a member of a Board unless it is expressly refused within three months.

The second amending Act (No. 47) deletes certain provisions of the Principal Act which have become obsolete or have outlived their purpose. It also introduces adult franchise in the elections to Local Boards. It further provides for an alternate machinery for carrying out duties of a District Local Board when it is found expedient to establish a District Local Board in any particular District and empowers Government to extend or curtail the term of supersession of a local board.

Local Authorities' Audit.—The Bombay Local Fund Audit (Amendment) Act (No. 12) entitles an auditor to call for any papers or explanations in relation to the accounts of a local authority as he may consider fit. It also provides that, except in case of District Local Boards and Municipal Boroughs, he may fix a period of even less than three days for compliance with his requisition, and that, if necessary, an audit may be taken up under instructions from the Commissioner or the Examiner, Local Fund Accounts, without previous notice. It allows the examiner a maximum period of three months for making his report and requires the President or Chairman to place the report before the local authority, and it provides that the explanations should be given by a local authority and not by its President or Chairman. The Act further enables the examiner to bring to the notice of the Commissioner at any time information which, in his opinion, deserves special attention or immediate investigation.

Finance and Taxation.—The Bombay Finance (Amendment) Act (No. 2) levies a duty on electrical energy consumed for any purpose. It also extends the levy of stamp duties to transactions in the bullion markets and imposes a tax on advertisements in newspapers.

A similar amending Act (No. 60) extends stamp duties to transactions in the oil seeds market.

The Indian Stamp (Bombay Amendment) Act (No. 56) improves the working of the law and the measures against evasion of the tax.

Sales tax is extended to the sales of goods dispatched outside the Province. The extending Act (No. 1) also enlarges the list of articles on which a tax at the rate of one anna in a rupee is levied, and it curtails the list of exemptions in Schedule II to the principal Act. Another Bombay Sales Tax extending Act (No. 48) provides that turn-over in respect of goods removed or despatched by a registered dealer to a place outside the Province of Bombay, without any sale in respect thereof being effected in the Province of Bombay, shall be included in the taxable turn-over of the dealer.

Motor Vehicles.—The Bombay Motor Vehicles Tax (Amendment) Act, makes the purchaser of a motor vehicle liable for all arrears of tax due from the previous owner or owners; the intending purchaser can verify at the time of purchase whether there are any arrears in respect of the vehicle (No. 5). It also provides for appeals against the orders made by the registering authority under the Principal Act. A second amending Act with a like title (No. 49) lowers the limit of tax to Rs. 60 per annum for vehicles licensed to carry in all not more than two

passengers. It also changes the rate of taxation in respect of a break-down van which is used for towing disabled vehicles.

The Bombay Public Conveyances (Amendment) Act empowers the courts to order the forfeiture, in the case of a conviction, of public conveyances kept or let for hire without licence (No. 37).

Health and Treatment.—The Board of Indian Systems of Medicine (Extension of Term) (Amendment) Act prolongs a period which otherwise expired on August 31, 1949 (No. 40).

The Bombay Medical Practitioners (Amendment) Act (No. 33) implements some of the recommendations made by the Committee appointed by the Government to consider and report on the working of the State Faculties for the Ayurvedic and Unani Systems of Medicine and to suggest changes in regard to them. It mainly provides for the reconstitution of the Board of Indian Systems of Medicine and establishment of a Faculty and provides for their various powers and functions. It also provides for the giving of recognition by the Board to bodies or institutions giving instructions in the Indian Systems of Medicine and for the withdrawal of such recognition in certain circumstances.

The Bombay Anatomy Act (No. 11) provides for handing over the unclaimed bodies of deceased persons to hospitals and medical institutions for the purpose of anatomical examination and dissection. The right of close relations to claim bodies is, however, preserved.

Another new law (No. 15) arranges for the registration and inspection of nursing homes.

Education.—Three Acts establish and incorporate new universities. Two, those for the Karnatak University (No. 20) and the Gujurat University (No. 50), will further the policy of decentralization. The third incorporates the Shreemati Nathibai Damodar Thackersey Women's University to furnish higher education for women specially suited to their needs and requirements (No. 51).

The Bombay Primary Education (Amendment) Act (No. 8) provides that, in the case of a District Local Board or authorized municipality whose members or Councillors go out of office on or before 31. 7. 1949, the members of the School Board shall not be elected by the District Local Board or authorized municipality until after the new Board or municipality is constituted. It also provides that no by-election shall be held to fill up a vacancy of a member occurring within four months of the date on which the term of office of the members of the School Board expires. A second amending Act (No. 46) alters the Bombay Primary Education Act, 1947, so as to enable the Government to enforce its provisions in areas merged in the Province as also in districts for which a district school board cannot be constituted.

Industrial Relations.—An amending Act (No. 553) excludes banks which have branches or establishments in more than one Province from the purview of the Bombay Industrial Relations Act, 1946. It also ensures that a representative Union will be the sole collective bargaining agency in all proceedings where it is entitled to appear. If an agreement with such Union in the course of proceedings in industrial disputes is arrived at, the award, etc., is to be made in terms of such agreement. The Act also excludes appearance of legal practitioners from proceedings other than criminal proceedings in Labour Courts save with the permission of those Courts.

Electricity.—The Bombay Electricity (Emergency Powers) Act, 1946, as amended by an Act of 1949 (No. 41), becomes permanent law, so that the Government obtains power to meet unforeseen developments at any time. The amending Act also provides for regulating the supply of electricity and periods of work in respect of mills, other large industrial concerns and others consuming electric power supplied by the licensees. It also takes power to discontinue supply of energy to the defaulting consumer and to restore it to him only on payment of outstanding fees.

Town Planning.—An amending Act (No. 13) empowers the administrator of a superseded Panchayat to undertake town planning schemes. The construction, alteration or repair of buildings in certain areas in the City of Bombay is forbidden, except under the written authority of a written permission, by the City of Bombay (Building Works Restriction) Act (No. 44).

Housing.—A Bombay Housing Board (Amendment) Act, empowers Government to exempt schemes which have been already approved and which are entrusted by it to the Bombay Housing Board from some of the provisions of the Bombay Housing Board Act, 1948. The Government may appoint any person it chooses to audit the accounts of the Board.

The Agriculturists' Loans and the Bombay Non-Agriculturists' Loans (Amendment) Act, authorizes Government loans for building houses on new sites to avoid premises being submerged or swept away by floods, and also for building or repairing boats (No. 6).

Rents and Rates.—The Bombay Rents, Hotel and Lodging House Rates Control (Amendment) Act (No. 3), provides that in certain specified areas any increase made after 31. 3. 1949, by local authorities in the general tax or in the rate or tax on buildings, houses or lands shall not be passed on to the tenants. It also empowers the Controller to fix, along with fair rates, the percentage of accommodation for daily and monthly lodgers and provides a speedy remedy for the hotel owner to recover possession of the accommodation if the lodger fails to vacate at the end of the period for which he has been accommodated. It further empowers the Court to forthwith order the lodger to deposit the amount of arrears in rent in Court within a period specified by it and to pass an order for the eviction of lodger if he fails to deposit the amount within the specific period.

A further amending statute (No. 58) empowers Government to exempt students' hostels or institutions from all or any of the provisions of Part III of the Principal Act, and transfers the jurisdiction from the Civil Judges to the Provincial Courts of Small Causes wherever such Courts are established. It also enlarges the power of the Controller to grant eviction certificates in certain cases.

Land.—The Maleki tenure, Taluqdari tenure and Mehwassi tenure are the peculiar land tenures in the Province of Bombay which carry with them certain privileges in derogation of the rights of the Crown and which are enjoyed or recognized either under law, custom, usage, sanad, grant, settlement, contract or order made by or entered into on behalf of the Crown. Three separate Acts of 1949 (Nos. 61-3) abolish them respectively, the first two in parts of the Province, the third in the district of Panch Mahals. Another Act (No. 32) abolishes the Bhagdari and Narwadari tenures prevailing in parts of the Province.

The Bombay Land Acquisition Officers Proceedings Validation Act, removes doubts about action by officers not duly appointed for the purpose (No. 35).

The Bombay Khar Lands (Amendment) Act provides that the appointment of the Chairman and non-official members of the Khar Lands Development Board shall be for a period of one year in the first instance; they will be eligible for reappointment during the first five years of the life of the Board during which Government has the power to nominate members and Chairman.

The Bombay City Land Revenue (Amendment) Act, gives a power of summary eviction where persons are in authorized occupation of lands vesting in the Government (No. 9).

Section 4 of the Bombay Land Improvement Schemes Act, 1942, empowers the Board which is constituted under section 3 thereof to direct the preparation of a Land Improvement Scheme for any area within its jurisdiction for matters such as preservation and improvement of soil, etc. There was no power however to make a scheme for the eradication of hariyali and such other weeds with a view to the improvement of agricultural land. Under the Bombay Land Improvement Schemes (Amendment) Act, a scheme can now be prepared (No. 38).

The Bombay Merged Areas (Amendment of Laws) Act (No. 30) extends

with suitable modifications the provisions of the Bombay Agricultural Debtors Relief Act, 1947, and of the Bombay Tenancy and Agricultural Lands Act, 1948, to the areas merged in the Province of Bombay under the Bombay (Enlargement of Area and Alteration of Boundaries) Order, 1947, or the Bombay (Enlargement of Area and Alteration of Boundaries) Order, 1948.

Co-operative Societies.—Amendments are made in the Bombay Co-operative Societies Act, 1925, to meet difficulties encountered in its working (No. 14).

Shops.—The Bombay Shops and Establishments (Amendment) Act (No. 17), adjusts references in the principal Act of 1948, so as to adapt mention of the Factories Act, 1934, in view of the coming into force of the Factories Act, 1948.

Evacuees' Property.—The Bombay Evacuees (Administration of Property) Act, creates machinery for dealing with a difficult problem (No. 24).

Prohibition.—The Bombay Prohibition Act amends and consolidates the law for promoting and enforcing the policy of prohibition, and also the Abkari law, in the Province of Bombay (No. 25).

Narcotic Drugs.—Greater responsibility is thrown upon the owners of places used for purposes of opium-smoking assembly by the Bombay Opium Smoking (Amendment) Act (No. 43). The Act gives the officers of the Police Department the powers conferred under sections 12 and 18 of the Act of 1936.

Excommunication.—The Bombay Prevention of Excommunication Act (No. 42), prohibits the practice prevailing among certain communities of excommunicating their members.

Police Forces.—The Police Forces (Control and Direction) Act (No. 16), facilitates the amalgamation of the Forces constituted under the Bombay District Police Act, 1890, and the City of Bombay Police Act, 1902. It provides for the control and direction by the Inspector General of Police, Bombay, of the Police Force for the Greater Bombay as well as the Police Force outside the Greater Bombay, and facilitates the transfer of members of the Police Force appointed under the City of Bombay Police Act, 1902, to that of any place outside the Greater Bombay and of the members of the Police Force appointed under the Bombay District Police Act, 1890, to that of the Greater Bombay.

The Bombay Village Police (Amendment) Act (No. 28), withdraws certain punitive powers conferred on the village police patrols by sections 14, 15 and 16 of the Act of 1867.

Prisoners.—The Prisoners (Bombay Amendment) Act (No. 7), gives the Court of Session for Greater Bombay the same powers as the High Court exercises in its original criminal jurisdiction in regard to the prisoners in the Presidency towns. It makes other amendments to the Principal Act which were found necessary in view of the establishment in the Presidency town of the Bombay City Civil Court.

A Bombay Repatriated Prisoners Act arranges for the reception, detention and trial of prisoners transferred from Pakistan to the Province of Bombay (No. 27).

Probation.—The Bombay Probation of Offenders (Amendment) Act, empowers the Court to require a Probation Officer to submit to it a report regarding the character and antecedents of the person dealt with under the Principal Act. It also gives to a Probation Officer immunity from any legal proceedings for anything done by him in good faith.

Courts.—The Bombay Court of Wards (Amendment) Act (No. 21), increases the limit of the immovable property of a Government Ward which the Court of Wards is empowered to sell, exchange, mortgage, etc., from one-fourth to one-third.

The Bombay Seals Act (No. 22), authorizes the alteration of seals prescribed in the Letters Patent of the High Court and in the Bombay Civil Courts Act, 1869, and the adoption of "Asoka Capital Motif" for the new seals of the Courts.

The term "collector" is defined by the Court Fees (Bombay Amendment) Act (No. 34). The object is to enable the Chief Controlling Revenue Authority to appoint any suitable person as collector under the Court Fees Act.

A Bombay Civil Courts (Amendment) Act, raises the jurisdiction of the courts of Civil Judges of Junior Division to Rs. 10,000 (No. 54).

The Bombay Public Security Measures (Amendment) Act, removes doubts by making it clear that the expression "Sessions Judge" includes the Additional Sessions Judge (No. 39).

Marriage and Divorce.–The Bombay Prevention of Hindu Bigamous Marriages (Amendment) Act removes the anomaly in the Act of 1946, namely that parties whose marriage had been dissolved by custom or usage were not permitted to marry again (No. 26).

The Bombay Hindu Divorce (Amendment) Act (No. 31), makes the person who is charged as an adulterer or adulteress in a divorce proceeding under the Bombay Hindu Divorce Act, 1947, a necessary party to the suit in order to give him or her a right to intervene and defend his or her honour.

Moneylenders.—Under the Bombay Money Lenders (Amendment) Act (No. 57), moneylenders are allowed to maintain, with the concurrence of the debtor, a pass-book instead of supplying to him statements of loans and annual accounts. The new Act makes the charging of interest in excess of prescribed rates to be an offence punishable under the Principal Act; it allows moneylenders to recover interest for the full month during which the amount is repaid or accounts are taken by the Court; and finally it enables Courts to impose heavier punishment for offences under the Act to curb illegal moneylending business.

4. COORG.

[*Contributed by the Chief Commissioner.*]

The Depressed Classes Removal of Civil and Social Disabilities Act, 1949.—It was increasingly felt by the people of Coorg that the disabilities which were imposed by social custom and usage on certain classes of Hindu community known as Harijans, Untouchables or Depressed Classes, etc., were repugnant to modern conditions and ideas of justice and social solidarity and should no longer be recognised by law or otherwise enforced. A resolution recommending that necessary legislation may be undertaken by Government for the purpose, was moved at the October 1947 session of the Coorg Legislative Council and passed. The object of this Act is to give effect to the wishes of the general public. The Act has been framed on the lines of the Madras Removal of Civil Disabilities Act, 1938 (Madras Act XXI of 1938) as amended by Madras Act XI of 1947 and the Bombay Harijan (Removal of Social Disabilities) Act, 1946 (Bombay Act X of 1947).

The Temple Entry Authorization Act, 1949.—At the October 1947 session of the Coorg Legislative Council a resolution was passed recommending to Government that all the temples in Coorg be thrown open to Harijans and that necessary legislation be undertaken by Government for the purpose. This Act is intended to give effect to this resolution. The Act is based on the Madras Temple Entry Authorization Act, 1947 (Madras Act V of 1947).

The Municipal Regulation (Amendment) Act, 1949.—The Municipalities of Mercara and Virajpet resolved that the keeping of shaving and hair-dressing saloons in the respective municipal limits should be regulated by licences both from the hygienic point of view as well as from the point of view of getting some income to the municipalities. Such a system exists in the Madras Province—*vide* section 249 of the Madras District Municipalities Act, 1920 (V of 1920) and item (jj) of Schedule V thereunder. There was no similar provision in the Coorg Municipal Regulation. This Act is therefore intended to make provision for this purpose. Provision for the regulating of the manufacture of beedies has also been included

in the Act as such a provision is considered desirable. Such a provision exists in the Madras District Municipalities Act, 1920, also—*vide* item (h) of Schedule V.

The Indian Medical Degrees Act, 1949.—The Government of India, Ministry of Health, pointed out that it had come to their notice that there were cases in which persons have used titles such as D.M.H., M.D.B., F.R.C.S. (India), etc., with a view to misleading the general public into the belief that they were medical men with high qualifications. The question of undertaking All-India legislation to prevent the assumption of such titles by unscrupulous persons was considered in the past. In 1935 it was decided that any Provincial Government which felt the need for further legislation to regulate the grant of Indian Medical qualifications should undertake such legislation itself. The Government of Madras accordingly took up the question in 1940 and amended the Indian Medical Degrees Act, 1916 (Central Act VII of 1916) in its application to the Province of Madras, by Madras Act, XX of 1940, with a view to prevent the assumption of bogus titles similar to degrees and diplomas in medicine and surgery granted by competent authorities such as those mentioned above, and passing themselves off as qualified medical practitioners. The Government of India therefore suggested to all Provincial Governments (other than Madras) and also the Coorg Administration to take up the question of enacting similar legislation in their respective Provinces. It was also found from the Civil Surgeon, Coorg, that there were instances in Coorg also where compounders practised Allopathic medicine and this means potential danger to the public. This Act was therefore passed to prevent such unauthorized practices and is framed on the lines of the Madras Act, XX of 1940.

5. EAST PUNJAB.

[*Contributed by* SARDAR BHAGAT SINGH, P.C.S., *Deputy Legal Remembrancer and Deputy Secretary to Government, East Punjab, Legislative Department.*]

THE abnormal state of affairs that came in the wake of the Partition, the aftermath of communal disturbances, internal turmoil and the mass migration of the population, necessitated a great deal of Legislative activity for the maintenance of law and order, the administration of evacuee property and the solution of other kindred problems, with the result that as many as 64 Ordinances had to be promulgated by the Governor and 105 Acts passed by the Legislature of the Province, during the post-partition period, ending December 31, 1949.

1947

Law and Order.—The Punjab Public Safety (East Punjab Amendment) (5 of 1947) aimed at requisitioning of assistance for the maintenance and restoration of law and order or for preservation of property and consequential appointment of special police officers. The East Punjab National Volunteer Corps Act (8 of 1947) constituted a National Volunteer Corps, the members whereof were to discharge functions in relation to protection of persons, security of property or public safety. The East Punjab Armed Bands (Arrest and Detention) Act (9 of 1947) sanctioned the arrest, without warrant, of any member of an armed band and the establishment of concentration camps. The East Punjab (Protection of Railways) Act (12 of 1947) provided for enhanced punishment for dereliction of duty by police, in protection against acts of violence to any passenger or goods conveyed upon any railway. The East Punjab Movable Property (Requisitioning) Act (15 of 1947) authorized requisitioning of movable property and acquisition of the same on payment of compensation.

Another measure, namely the East Punjab Essential Services (Maintenance) Act (13 of 1947) was enacted to compel public servants employed in essential services to continue to remain in service in the interest of public safety, maintenance of public order, health and sanitation or for maintaining supplies or services necessary for the life of the community.

Local Government.—The East Punjab Local Authorities (Restriction of Functions) Act (9 of 1947) empowers the assumption of the functions of defaulting local authorities and the appointment of refugees to vacancies in services.

Evacuee Property.—Following the wake of an Ordinance on the subject, the East Punjab Evacuees' (Administration of Property) Act (14 of 1947) is enacted to provide for the administration of evacuees' property in the Province.

Health.—The existing provisions of the Epidemic Diseases Act, 1897, being considered insufficient, to enable authorities to inoculate or vaccinate persons travelling by railway or otherwise, the Act is amended by Act 1 of 1947.

1948

The year 1948 was devoted to consolidation of the situation arising out of the partition, more particularly to the herculean task of resettlement of refugees. Out of 26 Ordinances promulgated and 50 Acts passed, the important ones are dealt with below:

Rehabilitation.—The East Punjab Refugees Rehabilitation (Loans and Grants) Act (2 of 1947) provided for the grant of loans and free grants, to facilitate the rehabilitation of refugees. The East Punjab Refugees (Registration of Land Claims) Act (Nos. 8 and 12 of 1948) sought to provide for the registration of claims in respect of property lost or abandoned by refugees in the Dominion of Pakistan, and in respect of land occupied or let for agricultural purposes. The East Punjab Factories (Control of Dismantling) Act (No. 20 of 1948) prohibited the dismantling of any factory or removing from a factory any spare parts. By the East Punjab Refugees Rehabilitation (Building and Building Sites) Act (No. 42 of 1948) Government sought to provide building sites to construct buildings for the rehabilitation of refugees. The supplementing House-building Loans Act (No. 43 of 1948) was intended to assist refugees to build their own houses with the help of loans advanced by Government.

Excise and Taxation.—In pursuance of the policy of Government to enforce prohibition and to make the provisions of the existing law more stringent as done by other provinces, the East Punjab Government also sponsored a measure enacted as Act IX of 1948. The East Punjab Opium Smoking Act (No. 25 of 1948) was passed to control the habit of opium smoking and to secure ultimate prohibition in the use of a drug so deleterious to health. The East Punjab General Sales Tax Act (No. 46 of 1948) replaced the Punjab Sales Tax Act, 1941, with a view to put the incidence of this tax on a more scientific basis. The Punjab Motor Spirit (Taxation of Sales) Act, 1939, was amended by East Punjab Acts (Nos. 5 and 6 of 1948) to augment the provincial revenues also to empower the licensing authority to debar an undesirable person from holding license.

General Administration.—In recognition of the war efforts of the people Act No. 22 of 1948 grants awards in the shape of land revenue assignments to parents who had enrolled three or more sons or daughters into the Defences Services in World War II.

Agriculture and Relief to Agriculturists.—Contagious diseases in livestock have always been responsible for a very high mortality in our province. The East Punjab Animal Contagious Diseases Act (No. 47 of 1948) is enacted to combat this evil as also to regulate movement of the infected animals. The law on consolidation of holdings contained in the Punjab Consolidation of Holdings Act, 1936, was considered defective as it did not give sufficient powers to Government for the compulsory consolidation of holdings. It is accordingly replaced by a comprehensive enactment (No. 50 of 1948).

Social and Religious.—Act No. 16 of 1948 comes as a charter of rights for certain classes of Hindus and Sikhs upon whom custom or usage imposed certain disabilities which have been rendered illegal with the result that no distinction is now permissible between various classes of Hindus and Sikhs as regards the enjoyment of public amenities and the right to public worship.

Twenty-six Ordinances and 39 Acts were promulgated during the year 1949.

Grow More Food Campaign.—Agriculturists in the Province do not ordinarily conserve manure properly. To check this colossal waste in the Country's agricultural resources the East Punjab Conservation of Manure Ordinance, 1949, was promulgated and subsequently replaced by East Punjab Act (No. 15 of 1949) which set up Manure Conservation Committees in rural areas. Statutory duties were also imposed on Municipal and Notified Areas and Small Town Committees to convert night-soil, sewage, etc., into compost manure.

With a view to intensify the Grow More Food campaign, Government decided to take over cultivable waste lands for reclamation purposes. For this object an Ordinance was promulgated and was subsequently replaced by the East Punjab Reclamation of Land Act (No. 22 of 1949). A similar measure was the Utilization of Lands Act (No. 38 of 1949) which applies to land, cultivated during previous harvest but allowed by the land owner, to remain fallow. The improved Seeds and Seedlings Act (No. 19 of 1949) was enacted to compel the use of pure and certified seeds and seedlings of the improved varieties of crops, recommended by the Department of Agriculture.

Control Measures.—The East Punjab Conservation of Firewood Supplies Act (No. 2 of 1949) empowered the Provincial Government to conserve or maintain supplies of firewood or to secure their equitable distribution and availability at fair prices. Similarly the East Punjab Control of Bricks Supplies Act (No. 1 of 1949) provides for control over supply of bricks. To prevent profiteering, consequent upon the devaluation of the rupee, the East Punjab Drugs (Control) Ordinance was promulgated and is subsequently replaced by an Act (East Punjab Act No. 30 of 1949).

Health.—For development of indigenous systems of medicine and making suitable arrangements for imparting training to Vaids and Hikims, the Ayurvedic and Unani Practitioners Act (No. 14 of 1949) is enacted. It regulates the qualifications and the registration of practitioners and ensures the maintenance of an adequate standard of proficiency in the practice of these systems of medicine. The Punjab Pure Food Act, 1929, was amended so as to provide a severer punishment for adulteration of food.

Revenue and Taxation.—In order to improve the financial position of the Province, the fees payable under the Court Fees Act, 1870, and the stamp duties leviable under the Indian Stamp Act, 1899, on documents executed in this Province, are enhanced by East Punjab Acts Nos. 26 and 27 of 1949.

Allotment of Land.—The East Punjab Displaced persons (Land Resettlement) Act (No. 36 of 1949) replaces the provisions of Ordinance No. 14 of 1949, for the quasi-permanent allotment and lease of evacuee land to the displaced landholders from West Punjab.

Children Act.—For the protection, custody, trial and punishment of youthful offenders and prevention of seduction and exploitation of children, the East Punjab Children Act (No. 39 of 1949) follows the lines of similar enactments adopted by the Bombay Government.

6. MADHYA PRADESH.

[Central Provinces and Berar.]

[*Contributed by* Shri T. C. Shrivastava, M.A., LL.B.]

During the year 1949, 55 Acts were enacted, out of which 44 are amending Acts. The important of these are classified under the following heads:

Taxation.—Act I clarifies the definition of "Lubricants" so as to include therein lubricants and motor spirit used in aircrafts and also validates the recovery of the tax on such articles so far made by Government. Act VIII aims at raising the

rate of tax levied on private motor vehicles and motor cycles plying for hire in the State. Act IX enhances the scale of fee for the registration of moneylenders to Rs. 12/- per annum. Act X provides for levying a duty of one anna per unit on the sale of electric energy for fans and lights. Act XI increases the amount of tax from Rs. 28/- to Rs. 50/- in case of persons whose annual income exceeds Rs. 10,000. Act XIII rationalizes the rate of entertainment duty by increasing the rate for higher classes to about 50 per cent. Act XVI enlarges the scope of the principal Act of 1947 for bringing in more revenue by curtailing the exemption list and increasing the list of luxury articles. Act XLIX exempts from payment of duty the electrical energy consumed for public purposes by the Departments of the State Government, Local authorities, industrial organizations, etc.

Social.—Act VI seeks to empower Head Constables of Police to exercise powers of entry, search, seizure and arrest without warrant under the parent Act in dry districts in order to facilitate detection of offences.

Rehabilitation of Displaced Persons.—Act XX is an emergency measure devised to secure speedy acquisition and possession of land in order to facilitate the resettlement of displaced persons. Act XIX makes provision for grant of loans by the State Government to refugees for their rehabilitation. Act XLIII makes provision for the acquisition of house-building material for the resettlement and rehabilitation of displaced persons.

Agriculture.—Act XXIV aims at giving relief as an emergency measure to agriculturists in the areas in which crops have been severely damaged due to prolonged wet weather in agriculture season by temporarily suspending the recovery of debt instalments and by staying the pending proceedings for recovery of such instalments. Act XXV empowers Government to construct Water-courses without obtaining water-course agreements from permanent holders of the land and to compel the maintenance of water-courses by such holders. Act XXVII seeks to make stringent the provision of the parent Act to check increasing cattle nuisance to crops. Act XXXIII provides for the temporary postponement of execution of certain decrees of civil courts against agriculturists. Act L seeks to regulate the construction of dams in rivers and other natural drainage channels by private cultivators for irrigation purposes. Act LII repeals Act XVI of 1947 and makes provision for a comprehensive plan of action for the preservation and development of cattle wealth in the State. Act LIV and LV make more stringent the punishment for misapplication of taccavi advanced under Acts XII of 1884 and XIX of 1883 respectively.

Local Government.—Act V seeks to provide for laying census duties and contributions upon all local bodies. Act XVII makes enabling provision for converting small Notified Area Committees into Gram panchayats. Act XXXI seeks to constitute Nyaya Panchayats for urban areas to function within the framework of ordinary law to achieve greater expedition in the disposal of civil and criminal cases of petty nature. Act XXXIV provides for making Government supervision over the Nagpur Improvement Trust more effective. Act XLVIII makes it obligatory on Municipal Committees to do the work of cattle census in municipal areas.

Land Revenue.—Act XII constitutes a Board of Revenue in the State for exercising appellate and revisional powers over Revenue Officers of the State to supervise their working generally.

Village Administration.—Acts XXIX and XXX make it obligatory on cultivators in the State to maintain a clear demarcation between their fields and the contiguous village road area in order to counteract the growing tendency on the part of villagers to encroach on the village road area adjoining their fields.

Education.—Acts XLV and XLVI enable the Nagpur and Saugor Universities respectively to exempt persons belonging to scheduled castes or backward tribes from payment of the whole or part of the fees levied for University Examination.

Public Order.—Act XXXVIII extends the life of Act LXII of 1948 by a year and provides for the constitution of an advisory council to review the grounds of

detention in cases in which representations have received from detenus. Act XLII makes it compulsory on all Home Guards to do public welfare work during the course of their training and service in the reserve.

Medical and Public Health.—Act XXXV provides for making provision of the parent Act more effective by penalising adulteration of foodstuffs including edible oils. Act XXXVI—makes comprehensive provisions for public health matters.

Anti-Hoarding and Profiteering.—Act XLVII provides for the control of the sale, supply and distribution of drugs and medicines in the State.

Industry and Labour.—Act XV provides for greater control and supervision over industries to which State aid is granted. Act XXVI makes provision for registering shops and establishments in order to tighten the administration of the Act and to levy adequate registration fees as an anti-inflationary measure to equate the income therefrom with the expenditure on services rendered to the public. Act XXXVII seeks to regulate the appropriation of water by an industrial concern or a local authority for industrial or urban purposes from natural source of supply.

7. MADRAS.

[*Contributed by* Sri K. Raghu Ramaiah, M.A., *Joint Secretary to Government.*]

1949

Number of Acts—48.

Agriculturists—Relief.—Act V of 1949 inserts a new section, section 17-A, in the main Act so as to provide for the scaling down of interest on arrears of rent due from an agriculturist which could not be done under the existing Act.

Aliyasantana Law.—Act IX of 1949 defines the law relating to marriage, maintenance, guardianship, intestate succession, family management and partition applicable to persons governed by the Aliyisantana Law of inheritance. The provisions of the Act are similar to those in the Madras Marumakkattayam Act, 1932, but less radical in certain respects than that Act.

Bigamy Prevention and Divorce.—Act VI of 1949 declares void any marriage solemnized between a man and a woman either of whom has a spouse living at the time of such solemnization and makes the parties to such marriages and also all persons abetting them punishable under the Indian Penal Code. At the same time, the Act provides for the dissolution of marriages in certain circumstances and permits a man or woman whose marriage has been so dissolved to solemnize a valid marriage with another after the expiry of six months from the date of the final order of dissolution. The Act applies to all Hindus, Buddhists, Jains and Sikhs.

Births and Deaths—Registration.—Act XXXVII of 1949 amends section 17 of the Madras Registration of Births and Deaths Act, 1899, for the purpose of stopping the practice of permitting private parties to handle the register of births and deaths and for enabling the Government to prescribe by rules the fee to be levied for the grant of extracts from such registers and for searches to be made in the registers by the Registrars and also the form in which extracts might be given.

Commercial Crops Markets.—Act II of 1949 widens the scope of the definition of "commercial crop" in the main Act so as to include any crop or product notified by the Government in the Fort St. George Gazette as a commercial crop for the purposes of that Act.

Act XL of 1949 empowers the Government specifically to make rules in regard to the procedure to be followed by market committees in financial matters generally, including the manner in which and the restrictions and conditions subject to which, expenditure may be incurred by it.

Co-Operative Societies.—Act XVI of 1949 makes sections 57-A and 57-B of the Madras Co-operative Societies Act, 1932 (which relate to recovery of sums due to co-operative societies by attachment and sale of properties) and all the rules made under that Act relating to or connected with the recovery of sums specified in sections 57-A applicable to the recovery of similar sums due to co-operative societies registered or deemed to be registered in the State of Mysore.

Cotton (Trade Stocks)—Census.—Act XLVII of 1949 provides for the collection of statistics relating to stocks of cotton held by traders and owners of cotton ginning and pressing factories in the State of Madras. The Act makes it obligatory on the part of every trader and every owner in respect of each place, where he carries on business in cotton, to keep books of account in the prescribed form and to furnish to the Director of Agriculture, Madras, or other prescribed authority, within a prescribed time, a return in the prescribed form showing the quantity of each variety of cotton held by him on January 31, and August 31, of each year and any other prescribed particulars. The Act also prohibits the publication of returns and information furnished or obtained under the Act without the previous consent in writing of the trader or owner concerned.

The Government have however deferred the enforcement of the Act so long as the Cotton Control Order, 1949, remains in force or so long as the present provisions under the above Order whereby returns regarding stocks of cotton are required to be submitted to the Textile Commissioner, Bombay or the Licensing Officer appointed by the State Government (i.e. Director of Controlled Commodities, Madras) are not rescinded.

Courts—Small Cause.—Act XXXIV of 1949 amends the Provincial Small Cause Courts Act, 1887 (Central Act IX of 1887) so as to empower the High Court to grant vacations to Small Cause Courts for periods not exceeding in the aggregate two months in each year.

Drugs—Control.—Act XXX of 1949 provides for the control of the sale, supply and distribution of drugs in the State of Madras and repeals the relevant Ordinance promulgated for the same purpose.

Educational Institutions—Temporary Control of Property.—Act XLVIII of 1949 enables the Government to take over the control for a temporary period of any property belonging to an educational institution, whether immovable or movable, if its recognition is withdrawn or if it is closed before the last working day of an academic year. In cases where any immovable property is taken over, rent will be payable to the person interested and in cases where movable property is taken over, compensation will be payable.

Electricity Supply Undertakings—Acquisition.—Act XLIII of 1949 provides for the acquisition of licensed electrical undertakings after payment of compensation. In the case of licensees other than local authorities, compensation will be determined according to such one of the three bases specified in the Act as may be chosen by the licensee. If any dispute in regard to the quantum of compensation arises between a licensee and the Government, such a dispute will be determined by an arbitrator appointed by the Government. In the case of licensees who are local authorities, the compensation will be an amount equal to the profits of the undertaking during the five account years preceding the date on which it vests in the Government and all rights, liabilities and obligations except those incurred on account of revenue losses shall vest in the Government on that date.

Endowments—Tanjore Chattram.—Act XI of 1949 amends the Tanjore Chattram Endowments (Utilization) Act, 1942, so as to authorize contributions from the funds of the Tanjore Chattram endowments towards the maintenance of an agricultural training school at Orathanad in the Tanjore district and such other institutions as may be notified by the Government.

Entertainments Tax.—Act XVII of 1949 provides for the levy of a tax on cinematograph exhibitions at the rate of two rupees eight annas for every show in the case of exhibitions in the City of Madras, two rupees for every show in the case of

exhibitions in certain notified municipalities, and one rupee eight annas for every show in the case of exhibitions in other municipalities and one rupee for every show in the case of exhibitions elsewhere other than those held with cinematograph apparatus and plant taken from place to place. The tax will be in addition to the entertainments tax levied under section 4 of the Madras Entertainments Tax Act, 1939.

Essential Articles—Control and Requisitioning.—Act I of 1949 amends section 9 (1) of the main Act, namely, Madras Act XIV of 1946, with retrospective effect from the commencement of that Act so as to make it clear that certain orders which were made under the Defence of India Rules by District Collectors and published only in the District Gazettes continued in force even after those rules ceased to be in force. It also amends the main Act so as to make it inapplicable to eggs.

But it may be noted that the main Act itself has since been superseded by Madras Act XXIX of 1949.

Hackney Carriages.—Act XXXIII of 1949 substitutes a new definition of "Hackney carriage" in the Madras Hackney Carriage Act, 1911, so as to make it clear that vehicles such as cycle-rickshaws will also come within the scope of that definition.

Industrial Disputes.—Act XII of 1949 amends the Industrial Disputes Act, 1947, in its application to the State of Madras so as to validate all proceedings taken, all awards made and all other acts and things done in respect of any reference made by the Government to an Industrial Tribunal constituted under the Industrial Disputes Act, 1947. The amendment was necessitated in view of a decision of the Madras High Court that section 10 of the Industrial Disputes Act, 1947, did not empower the Government to refer to an Industrial Tribunal all possible disputes that might arise in future, or the parties to an industrial dispute to file applications to the Tribunal without a reference from the Government. The Act also removes the restrictions on the Government's power to notify any industry as a public utility service to the industries specified in the Schedule to the main Act by omitting that Schedule.

Industries—State Aid.—Act IV of 1949 provides for the establishment by the Government of an Industrial Finance Corporation for the purpose of giving financial assistance to industrial concerns and enterprises and also enables the Government to take shares therein. The Amending Act also enables the Government to subscribe for shares in, or to aid in any manner, any industrial concern or enterprise, the paid-up capital of which exceeds thirty lakhs of rupees on such terms and conditions, as the Government may lay down.

Irrigation Tanks—Improvement.—Act XIX of 1949 enables the Government to increase the capacity and efficiency of all irrigation tanks in the State wherever they may be situated by raising their full tank level otherwise. If the owner of any property sustains loss or damage on account of anything done under the Act by the Government, he will be entitled to such compensation as may be determined by the District Collector.

Jute Goods—Control.—Act XXVIII of 1949 provides for the regulation of the production, supply and distribution of jute goods in the State and repeals the relevant Ordinance promulgated for the same purpose.

Land Improvement Schemes.—Act XXII of 1949 empowers the Government to undertake contour bunding and contour trenching schemes in the State. The Act makes the owners of the lands in which works have to be carried out in pursuance of a scheme liable to bear the cost of such works, in whole or in part, if the scheme so provides. The Act is based on the Bombay Land Improvement Schemes Act, 1942 (Bombay Act XXVIII of 1942).

Land Tenure.—Act XXXIX of 1949 provides that for determining the net income or the average net income of a religious, educational or charitable institution from an estate or part thereof all amounts which accrued due to the institution

concerned during the relevant fasli year or years should be taken into account whether the amounts were actually collected or not.

Laws on Provincial and Concurrent Subjects—Assimilation of.—Act XIV of 1949 provides for the application of the laws in force in the ordinary tracts of the West Godavari district to certain villages which formed part of a partially excluded area in that district and ceased to be so by virtue of the Madras Partially Excluded Areas (Cesser) Order, 1948.

Litigation--Vexatious.—Act VIII of 1949 provides that if the High Court is satisfied on the application of the Advocate-General that any person has habitually instituted vexatious proceedings, Civil or Criminal, in any court or courts, the High Court may order that no proceedings, civil or criminal, shall be instituted by such person in any court within the Presidency-town without the leave of the High Court and elsewhere without the leave of the District and Sessions Judge. The Act mainly follows the provisions of section 51 of the Supreme Court of Judicature (Consolidation) Act, 1925, in England.

Local Administration.—Act III of 1949 provides for the taking of the oath or affirmation of allegiance, by councillors and aldermen of the Corporation of Madras, municipal councillors and members of local boards, to "India and to the Constitution of India as by law established" instead of to "the Crown," in view of the passing of the Indian Independence Act, 1947.

Merged States—Extension of Laws.—Act XXXV of 1949 extends to the merged States of Pudukkottai, Banganapalle and Sandur the enactments specified in the Schedule to the Act which it is within the competence of the State Legislature to extend. The Act is based on similar legislation undertaken by the Central Government.

Motor Vehicles.—Act XLIV of 1949 amends section 68(2) of the Motor Vehicles Act, 1939, for the purpose of levying a fee on applications filed under section 64-A of the main Act, in order to discourage indiscriminate submission of applications for revision under section 64-A.

Personal Law—Muslim.—Act XVIII of 1949 amends section 2 of the Muslim Personal Law (Shariat) Application Act, 1937 (Central Act XXVI of 1937) so as to extend its provisions to agricultural land and also all charities, charitable institutions and charitable and religious endowments.

Places of Public Resort.—Act XXXVIII of 1949 provides that in municipalities and major panchayats, licences should be obtained in respect of an enclosed place or building, irrespective of its area, if it is used for any game or competition in which the public are allowed to take part.

Police.—Act XLII of 1949 amends section 24 of the Madras City Police Act, 1888 so as to provide that no police-officer below the rank of Sub-Inspector shall arrest without warrant any person found over-loading a hand-cart. The Act also inserts a new provision—section 71-II—in the main Act, empowering a salaried Presidency Magistrate, on the application of a person detained in a workhouse or special home, to order the continuance of his detention for a further period, not exceeding two years on each occasion, after the Magistrate has satisfied himself that such continuance is desired by the applicant and would be in his interest.

Police and Gaming.—Act VII of 1949 amends the Madras City Police Act, 1888 and the Madras Gaming Act, 1930 so as to prohibit (1) wagering or betting on horse races even within race enclosures and (2) the printing, publication or sale of news of acceptances for horse races or tips or information likely to facilitate betting on horse races. The first amendment will come into force only on such date as may be notified by the Government.

Port Trust—Tuticorin.—Act XXXII of 1949 amends the main Act (Madras Act II of 1924) so as to increase the maximum strength of the Board constituted under that Act from 13 to 17.

Prisoners.—Act XXI of 1949 repeals sections 38 and 39 of the Prisoners Act, 1900, in its application to this State as those sections lay down a very circuitous procedure regarding the production in court of prisoners required to give evidence.

Prohibition.—Act XLV of 1949 inserts a new section section 53-A in the main Act, to the effect that a Prohibition Officer shall be deemed to be a Police Officer within the meaning and for the purposes of section 125 of the Indian Evidence Act, 1872.

Act XLVI of 1949 provides for the grant of licences to persons to possess liquor and issue them to persons or institutions who hold permits or licences under the Act or who have been exempted under the Act from so much of the provisions of section 4(1) (a) or (j) as relates to the possession, consumption or buying of liquor.

Re-Enactment.—Act X of 1949 re-enacts certain Acts which were extended for one year from April 30, 1948, by the Madras Re-enacting and Repealing (No. I) Act, 1948, and the Madras Re-enacting (No. II) Act, 1948. Some of the Acts are re-enacted permanently, some permanently but with some modifications and some others temporarily up to April 29, 1950.

Act XXIII of 1949 re-enacts the provisions of the Madras Maintenance of Public Order Act, 1947, in view of a decision of the Madras High Court that the latter Act cannot be considered to continue in force. In view of that decision, the following Acts were also passed re-enacting the provisions of the corresponding previous Acts:

1. Madras Act XXIV of 1949 (The Madras Tenants and Ryots Protection Act, 1949).
2. Madras Act XXV of 1949 (The Madras Buildings (Lease and Rent Control) Act, 1949).
3. Madras Act XXVI of 1949 (The Madras Prohibition (Amendment) Act, 1949).
4. Madras Act XXVII of 1949 (The Madras Preservation of Private Forests Act, 1949).
5. Madras Act XXIX of 1949 (The Madras Essential Articles Control and Requisitioning (Temporary Powers) Act, 1949).

Rivers Conservancy.—Act XXXI of 1949 amplifies section 17 of the main Act so that the powers conferred by that section on the Conservator of Rivers may extend to the planting and growing of reeds, grass or shrubs or to the cutting and removal of reeds, grass or shrubs.

Sales Tax.—Act XV of 1949 enhances the tax imposed under the main Act from three pies for every rupee in the turnover to four-and-a-half pies in the rupee in the case of articles of food and drink sold in a hotel, boarding house or restaurant. The Act also makes the sale of cotton liable to taxation.

Sugar Factories Control.—Act XX of 1949 provides for the licensing of sugar factories and for the regulation of the supply of sugar-cane to such factories and also the prices payable for such cane. The Act repeals the Sugar-cane Act, 1934, (Central Act XV of 1934) in its application to this State.

Temple Entry.—Act XIII of 1949 amends the Madras Temple Entry Authorization Act, 1947, so as to enable all classes of Hindus to have a right of entry and worship in all Hindu temples including those which are constructed for the benefit of particular sections of the Hindu community and also provides, in order to effectively enforce the provisions of the Act, that all offences punishable under the Act shall be cognizable.

Treasure Trove.—Act XXXVI of 1949 amends the Indian Treasure-trove Act, 1878, (Central Act VI of 1878) in its application to this State, so as to cast the duty of giving notice to the Collector of the finding of a treasure on the owner or occupier of the place in which it is found and not merely on the finder of the treasure. It also enables the Collector to make the enquiry and take the steps mentioned in section 5 of the main Act where information is received by him otherwise than by notice under section 4.

Tuberculosis Sanatoria Regulation of Buildings.—Act XLI of 1949 amplifies the definition of "re-erection of a building" so as to include also the conversion of a dwelling house into a workshop or factory and also provides that the order giving sanction for the erection or re-erection of a building should specify the purpose for which it is to be used and makes the use of the building for a different purpose punishable. The Act also provides for the imposition of deterrent fines in the case of continuing offences.

8. ORISSA

[*Contributed by* Sri J. Mahanti, M.A., B.L., *Secretary to Government.*]

During the year 1949 eleven Acts were passed by the State legislature and four Ordinances were promulgated by the Governor. Besides these, five Regulations were made by the Governor under section 92(2) of the Government of India Act, 1935. The subjects on which legislation was undertaken during the year are outlined thus:

State Transport Service.—With the merger of the States with Orissa for administrative purposes, it became necessary to make reasonable provisions in the Motor Vehicles Act, 1949 for sufficient encouragement of certain State Transport Services that have been developed in the States before the merger and certain services that have since been extended in the States. The Motor Vehicles Act 1939 has been amended by the Orissa Motor Vehicles (Amendment) Act, 1949 to achieve the above purpose.

Tenancy Legislation.—The Orissa Tenants Protection (Amendment) Act, 1949 is the only measure of legislation under the head.

It aims at giving protection to the tenants by making the practice relating to the division of any subsidiary or additional crop, delivery of hay or straw subject to the maximum share payable to the landlord.

Taxation and Revenue.—An amending legislation was undertaken by this Government under the head to increase revenues of the State by increasing the existing rates of the entertainments tax by amending section 4 of the Orissa Entertainment Tax Act, 1946.

Development of Animal Husbandry.—The Orissa Animal Contagious Diseases Act, 1949 was enacted by this Government with a view to provide for the prevention and control of contagious diseases affecting animals. Various animal husbandry schemes were adopted and provisions were made in the Act to authorize control over animals which would cause infection and places where infection would spread.

Municipal Administration.—Two Acts amending the Bihar and Orissa Municipal Act, 1922, and the Madras District Municipalities Act, 1920, were passed extending the life of the municipalities in the State. Provisions were also made in these Acts to make the municipalities statutorils responsible to utilize town refuse and right soil for preparing compost manure. To enable municipalities to find money for spraying of D.D.T., the maximum rate of holding and personal tax were enhanced subject to the conditions and to the extent of requirements.

University.—The Utkal University Act, 1943, was amended during the year in order to clarify the ambiguity regarding the appointment of Vice-Chancellor on the expiration of his term of office, to increase the number of life fellows who may be appointed by the Chancellor from 2 to 5 in consideration of the integration of the States to make it clear that the registered teachers of colleges and registered graduate teachers of schools are excluded from the seats meant for the registered graduates and to provide for representation of the School teachers in the syndicate and the Academic Council.

Stamp Duty.—In order to facilitate the entry of the lawyers already practising in the State High Court and other members of the Bar to enrol themselves as

Advocates of the Orissa High Court it became necessary to lower the stamp duty chargeable for the same. To achieve this purpose the Indian Stamp Act, 1899 was amended by a State enactment.

Registration of Muhammadan Marriages and Divorces.—The Orissa Muhammadan Marriages and Divorces Registration Act, 1949 was enacted in order to provide for the voluntary registration of Muhammadan marriages and divorces in the State of Orissa.

Public Order.—Extensive amendments were introduced to the Orissa Maintenance of public order Act, 1948, by the Orissa Maintenance of public order (Amendment) Act, 1949, to provide for the disclosure of grounds of detention, diveration of orders of detention, imposition of censorship and the control of publication for purpose of securing public safety or the maintenance of public order.

Census.—The Orissa Local Authorities census expenses Contribution Act, 1949 was enacted to provide for contribution by Local Authorities of a portion of the expenses incurred in connection with the taking of census.

9. WEST BENGAL.

[*Contributed by the Secretary to Government.*]

DURING the year 1949, the West Bengal Legislative Assembly passed twenty-one Acts. In the same year, thirteen Ordinances were promulgated by the Governor; the provisions of the first eleven of these Ordinances were respectively incorporated in the West Bengal Acts VII, XIX, X, VIII, V, XI, VI, XXXVI, IV, II, X of 1950. The West Bengal Ordinances XII and XIII of 1949, amending the provisions of the Bengal Criminal Law Amendment Act, 1930, (Ben. Act VI of 1930), are deemed to have lapsed after having effected the amendments.

The West Bengal National Volunteer Force Act.—Constitutes a National Volunteer Force in West Bengal for service during a period of emergency. The functions of the Force are the protection of persons, ensuring the security of property, preservation of the public peace in West Bengal and general assistance to the Police Force of the State.

The Calcutta Thika Tenancy Act.—Regulates the rights and liabilities of the *thika* tenants and their landlords in Calcutta and Howrah. It ensures protection of the *thika* tenants against arbitrary eviction and enhancement of rent, and provides for a suitable machinery for the deposit of rent.

The West Bengal Agricultural Income-tax (Amendment) Act.—Removes defects and ambiguities from the Bengal Agricultural Income-tax Act, 1944. It lowers the exemption limit of taxation and increases the rates of levy on total agricultural income.

The West Bengal Premises Requisition and Control (Temporary Provisions) Amendment Act.—In amending the main Act of 1947, invests the Government with powers to prevent occupation of any vacant premises, to compel the owner to remove furniture, to put furniture to auction, to enforce surrender of premises, to evict the person inducted by Government on grounds of wrongful user or default of rent and to recover the arrears as a public demand.

The West Bengal Moneylenders (Amendment) Act.—Exempts the Reserve Bank of India from the operation of the Bengal Money-lenders Act, 1940, as the advances of the Reserve Bank to the banking institutions are not considered to be typical money-lending.

The Corporation of Calcutta (Temporary Supersession) Amendment Act.—Amending the Act of 1948, empowers the Government to extend the term of supersession of the Calcutta Corporation for a further period of one year, i.e. up to March 31, 1950.

The West Bengal Local Self-Government (Amendment) Act.—Amends the Bengal Local Self-Government Act of 1885. It provides for election of members of District Boards in districts where Local Boards have not at all been established (as in the new districts of Malda, West Dinajpore, Jalpaiguri and Nadia). It also provides for franchise of the people living in areas not previously covered by Local Boards in connection with election of members of District Boards on the abolition of Local Boards in the districts.

The West Bengal District Boards (Amendment) Act.—Amends the West Bengal District Boards Act, 1947, reconstituting the District Boards of Nadia, Jalpaiguri, West Dinajpore and Malda by election according to the Bengal Local Self-Government Act of 1885 after the period of two years. After the partition of Bengal, these four District Boards were constituted by Government, under the Act of 1947, by appointed members for a period of two years. The new Act also empowers the Government to extend the period of two years by six months for the purpose of holding the elections.

The West Bengal Motor Vehicles Tax (Amendment) Act.—Reduces the minimum period of a quarter (three months), for which tax is payable, to one month in cases only of temporary registration of motor vehicles under section 25 of the Motor Vehicles Act, 1939.

Under The West Bengal Finance (Sales Tax) Amendment Act,—The existing list of exemptions from taxation is reduced and provision is made for stopping avoidance of taxation and for smoother working of the law.

The West Bengal Amusements Tax (Amendment) Act.—Amends an Act of 1922 in its application to cinemas. It raises the rates of Entertainments Tax and levies of tax on complimentary tickets for the cinema.

The West Bengal Finance Act.—Continues in force on a permanent basis, the existing rates of Betting Tax, Totalisator Tax and Electricity Duty.

The Bengal Nurses (West Bengal Amendment) Act.—Changes the constitution of the Nursing Council owing to the partition of Bengal and restricts its jurisdiction to West Bengal. Power is also conferred on the Government to determine the term of office of the existing Council.

The West Bengal Molasses Control Act.—Continues in force for a period of three years in the first instance from April 1, 1949, the provisions of the Bengal Molasses Control Ordinance, 1946. The Act confers certain specified powers on the Government to control production, supply and distribution of, and trade in, molasses, so that molasses can be made available to distilleries from sugar mills and large stockists at controlled prices. Penal provisions have been introduced to deal with contravention of the Act.

The West Bengal District School Boards (Amendment) Act.—By amending the West Bengal District School Boards Act, 1947, which reconstituted the District School Boards of Jalpaiguri, Malda, West Dinajpore and Nadia after the partition of Bengal, now provides for the reconstitution of those School Boards in accordance with the provisions of the Bengal (Rural) Primary Education Act, 1930.

The Mahajati Sadan Act.—To perpetuate the ideals of Netaji Subhas Chandra Bose, creates a Board of Trustees and confers powers on the Government to acquire the lands and premises at 166 Chittaranjan Avenue, Calcutta, and to complete the half-finished building thereon known as Mahajati Sadan. The property and the Fund will vest in the Board, which will receive specified contributions from the Government and the Calcutta Corporation. The Government will put the building to certain specific uses, leading to the intellectual and physical advancement of the people.

The Calcutta Improvement (Amendment) Amending Act.—Amends the Calcutta Improvement (Amendment) Act, 1948, so that the provision made in it for appointment by the Provincial Government of three members on the Board of Trustees for the Improvement of Calcutta in place of the three representatives

of the Calcutta Corporation may have force till March 31, 1950, instead of March 31, 1949.

The West Bengal Evacuees (Administration of Property) Act.—Sets up Evacuee Property Management Boards in the districts from where a substantial exodus, due to communal disturbances, has taken place on or after June 1, 1947. The Boards should be composed of members of the minority community. Their functions are management and protection of evacuee property and they have no powers of alienation. Provisions for the restoration of property to the evacuee have also been incorporated.

The West Bengal Repealing and Amending Act.—As the name indicates, rectifies certain formal errors of commission and omission in some previous enactments and repeals certain spent, useless and unnecessary matter in the Statute Book.

The West Bengal Non-Agricultural Tenancy Act.—Regulates the law of landlord and tenant in respect of certain non-agricultural tenancies in West Bengal, mainly in the urban areas and the municipalities outside Calcutta. It defines the rights and liabilities of landlord and tenant, and makes provisions to prevent arbitrary evictions of tenants. Provisions for deposit of rent in Court and other judicial procedure have been laid down in the Act.

The West Bengal Criminal Law Amendment (Special Courts) Act.—By empowering the Government to appoint Special Courts and Special Judges, makes provision for the speedy trial of cases relating to bribery, fraud, etc., and for more effective punishment of certain offences. Certain special rules of procedure and evidence have also been laid down to avoid delay in trial.

X. PAKISTAN.

I. CENTRAL LEGISLATURE.

[*Contributed by* Mohammad Gul, *Attaché to the Government, Ministry of Law.*]

During the year 1949, the Constituent Assembly passed 4 Acts. It also functions as the Federal Legislature, and in this capacity passed 15 Acts. In addition, 21 Ordinances and 8 Orders were promulgated by the Governor-General. The limited duration of Ordinances, abandoned during the late war, has since been re-introduced. An Ordinance promulgated after December 31, 1949, ceases to operate at the expiration of six weeks after the re-assembly of the Legislature, or before that period, if a resolution disapproving it is passed by the Legislature earlier, or if it is withdrawn. The Orders are mostly the offspring of section 9 of the Indian Independence Act, 1947, which vested in the Governor-General extensive powers to amend and adapt the Constitution Act Orders-in-Council, rules and other instruments made thereunder, to suit the new conditions. The power originally exercisable till March 31, 1948, was extended by a year.

For the purpose of this review, it will suffice to describe very briefly the objects of the principal enactments and their salient provisions.

Acts of the Constituent Assembly.

Constitutional Changes.—Of the 4 Acts passed by the Constituent Assembly, two relate respectively to the amendment of the Government of India Act 1935 and the Indian Independence Act 1947. In the former Act provision is made (section 10A) for the appointment of Deputy Ministers, who are not to be members of the Council of Ministers. The other declares the power of the Constituent Assembly to increase and decrease its membership and to re-distribute its seats. In pursuance of this declaration, the Constituent Assembly for Pakistan (Increase and Re-distribution of Seats) Act was passed whereby five and one seats respectively were allotted to Muslims of the Punjab and Sind, following an increase in the Muslim population in these Provinces.

The Public and Representative Offices (Disqualification) Act seeks to keep the public life of the country clean by setting up machinery for judicial inquiry

into the conduct of a minister, deputy minister, parliamentary secretary, or even a member of the Federal or Provincial Legislature. The gravamen of the charge under the Act is "misconduct," which includes corruption, favouritism, jobbery, wilful maladministration and conversion of public monies; the punishment is disqualification from public life for a period not exceeding 10 years as may be determined by the Governor-General.

Orders 5 and 6 promulgated under section 9 of the Indian Independence Act also make notable changes. The former empowers the Governor-General to exercise extra-provincial jurisdiction for the administration of law and order in territories where such jurisdiction vests or may hereafter vest in him by treaty, grant, usage, sufferance or other lawful means. The other arranges for the inclusion of areas other than the Provinces, Chief Commissioner's Provinces, the Capital of the Federation and the Federated States into the Federation and extends the executive authority of the Federation to those areas. It also provides that the Governor of a Province appointed by the Governor-General shall hold office at his pleasure.

Acts of the Federal Legislature.

Communications.—The Karachi Port Trust and Chittagong Port (Amendment) Acts V and VI are sister measures which increase the number of trustees constituting the Board at each Port and also provide for re-adjustment of seats between the various interests represented on the Board.

Fiscal Measures.—The Pakistan Finance Act IX continues the existing rate of salt duty; fixes rates of inland postage; continues subject to certain modifications the additional customs duties imposed by the Indian Finance Act, 1942; imposes customs duty on export of cement, fish and bamboo and an excise duty on raw jute; fixes rates of Income-tax, Super-tax and excess profits tax, and continues the business profits tax for another year.

The Sea Customs (Amendment) Act X imposes enhanced penalties for smuggling and certain other offences under the principal Act. It also provides for speedy clearance of salt from bonded warehouses.

Industrial Development.—The Industrial Finance Corporation Act I, establishes a banking institution for the purpose of making medium and long term credits more readily available to industrial concerns in Pakistan. The initial authorized capital of the Corporation is Rs. 3,00,00,000, divided into 60,000 paid up and guaranteed shares of Rs. 500/- each, of which the Central Government hold 20,400 shares and the remainder are reserved for public subscription.

The Development of Industries (Federal Control) Act XIII is another important measure providing for the regulation and development of 27 major industries specified in the Schedule to the Act, under federal control and direction. The Central Government assumes this power of control and direction under a declaration made in pursuance of item 34 in the Federal Legislative List in the Constitution Act.

Social Measure.—The Bombay Prevention of Prostitution (Karachi Amendment) Act VIII is essentially a social measure which attempts to eradicate prostitution in the Capital of the Federation by making the prostitute herself punishable as also the person who abets her prostitution or lives on her earnings.

Ordinances.

Ordinances I and XIII concern the city of Karachi. The former empowers the Provincial Government to dissolve the Municipal Corporation and order fresh elections, and, pending fresh elections, to appoint an officer to be called the Municipal Commissioner invested with all the powers of the Corporation and the Standing Committee. The latter sets up a new Joint Water Board for the city with a view to supplementing the existing water supplies. Both these measures were necessitated by the great increase in the city's population since it was made the Federal Capital.

Ordinances III and IX concern the Armed Forces. The first makes an Acceding State's forces attached to the Pakistan Land Forces, whether within or outside the State, subject to the Indian Army Act, 1911, while the other empowers the Governor-General to grant a commission or warrant to a foreigner in the Pakistan Forces. This is designed to remedy the shortage of technical personnel in the armed forces of the country.

Ordinance VII honours an agreement with India, for the recovery and restoration of Hindus or Sikhs under the age of 16 years if male, or of whatever age if female, who have during the period from March 1, 1947, to January 1, 1949, become separated from their original families, and are living with or under the control of Muslims. It vests extraordinary powers of search in the police and empowers Provincial Governments to set up camps for the reception of such persons until they are handed over to authorized persons for evacuation to India.

The Pakistan Public Safety Ordinance XIV empowers the Central Government to order simple detention of a person or his removal from Pakistan or a specified area, if the Government is satisfied that by his prejudicial activities he is likely to disturb the public safety or order. The Ordinance also provides for the control of subversive associations and for their disbanding and for additional control over the dissemination of information via the printing press.

Ordinance XV replaces the earlier Ordinance XVIII of 1948 and makes elaborate provisions for the taking over, management and transfer of evacuee property by a Custodian-evacuee of property left behind by persons who on account of partition migrated to India: the legislation in both countries is parallel. The change in title from "the Protection of Evacuee Property"—as the previous Ordinance was called—to "the Administration of Evacuee Property" emphasizes the change in the object and tenor of the new Ordinance.

Ordinance XVIII empowers the Central Government to fix maximum prices for jute; to prohibit its sale or purchase below the prices so fixed on pain of confiscation and imprisonment and to requisition baling presses and godowns for baling and storage. It also envisages the appointment of agents and brokers to purchase jute on behalf of the Central Government and the setting up of a Jute Board to supervise all dealings in jute.

Ordinance XIX sets up the National Bank (as distinct from the State Bank) of Pakistan. It will function as a joint stock bank with statutory backing, and as a great part of the ordinary banking transactions of the Central and Provincial Governments are to be entrusted to it, it is expected to play an important rôle in the banking system of the country.

Orders.

Of the eight Orders, two namely 5 and 6 have already been referred to. Of the rest reference need be made only to the following:

No. 3 issued under section 140(2) of the Constitution Act fixes and assigns the proportion of the net annual proceeds of the export duty on jute or jute products to the Provinces (East Bengal) and Federated States growing jute. No. 4 adapts with necessary modifications the Central Acts and Ordinances in force in British India immediately before the "appointed day," i.e., August 15, 1947.

2. PUNJAB.

[*Contributed by C. M.* Shafqat, *Under Secretary (Leg.) Office of the Legal Remembrancer and Secretary to Government, Punjab Legislative Department.*]

This review will cover the legislation of Punjab (Pakistan) up to December 31, 1949, since August 15, 1947. On the latter date India was divided into the Dominions of India and Pakistan and the Province of the Punjab was split into

West Punjab which fell within the Dominion of Pakistan, and East Punjab which fell within the Dominion of India. Recently the name "West Punjab" has been changed into the Punjab again.

The background of the legislation during this period is furnished by mass emigration of population without parallel in history. As this was also a period of lawlessness and border strife, and the trade and industry of the Province were largely in the hands of non-Muslim evacuees before Partition, the need for an unprecedented mass of legislation was obvious. Quite plainly too the creation of a new Muslim State called for a demand for the enactment of Shariat. So also the great financial strain on the new Province made new problems which had to be solved by legislation. Most of the legislation in the initial period consisted of Ordinances made by the Governor in view of the urgency of the problems.

Nevertheless these Ordinances were of equal virtue with legislation enactments. In January, 1949, the Legislative Assembly was suspended and the Governor assumed its powers on behalf of the Governor-General under a proclamation of emergency issued by the latter. Accordingly the necessity for Ordinances disappeared. In 1949 as many as 25 Acts were issued, but no Ordinances. Some of the Acts previously made by the Governor under the repealed section 93 of the Government of India Act, 1935, had to be re-enacted because their efficacy was limited to a period of two years from the end of the previous emergency. Under section 92-A, the section which now corresponds to the repealed section 93, this limit of time has been removed. In the year 1948, 15 Ordinances and 5 Acts were issued. In 1947 (since 15. 8. 1947), 9 Ordinances were promulgated, but no Acts as the Legislature could not meet. Only some of the principal Ordinances and Acts are mentioned below.

Security.—Home Guard Ordinance, 1947, later replaced by Border Police Act, was enacted to meet non-Muslim guerilla attacks on border villages. Internally the threat of sabotage, espionage and disturbances had already been met by the Punjab Public Safety Act, 1947. In 1949 this was substantially re-enacted. These provided for control of newspapers and for preventive detention among other matters.

Evacuee Property.—Two Evacuee Property Ordinances of 1947, later replaced by the West Punjab (Protection of Evacuee Property) Act, 1948, were meant to take over the unattended property of the evacuees and to preserve the same. These provided for the appointment of a Custodian in whom this property vested. He was armed with extensive powers and controlled transfer of evacuee property. The Economic Rehabilitation Ordinance, 1949, precedented the obverse of the coin by providing for the rehabilitation of refugees, principally with reference to evacuee property. The refugees who preferred the transitory camp life to permanent rehabilitation had to be compelled to resettle as useful and self-dependent citizens. The West Punjab (Control of Refugees) Ordinance, 1948, was made for this purpose. A large number of houses had been burnt down during the disturbances about the Partition. The debris was obstructing the streets and drains and was proving detrimental to the convenience and the health of the people at large. The West Punjab (Development of Damaged Areas) Ordinance, 1948, was made to provide for re-building these localities on the principles of public health under the control of the Improvement Trusts. The claims of refugees on basis of property held in the East Punjab were allowed to be registered. But safeguards against mis-representation were made under the Refugee (Registration of land claims) Ordinance, 1949.

Financial.—New sources of revenue were tapped by the West Punjab (Muhajir Fund Cess) Act, 1948, the West Punjab (Agricultural Income-tax) Act, 1948, and the Indian Stamp (West Punjab Amendment) Act, 1948. The rate of stamp duty was raised by 25 per cent. For the first time the agricultural income was made liable to Income-tax in addition to the land revenue that it paid.

Miscellaneous.—The ignorant zamindars, especially the refugees who were allotted land and were anxious to make more money quickly rather than look

to the future of themselves, the land and their country, tried to mix different varieties of cotton. The West Punjab (Cotton Control) Act, 1949, was enacted for prevention of adulteration of cotton by exercise of statutory control for the cultivation, marketing, ginning, pressing, baling and transport.

The disturbances did not permit the holding of elections to local bodies and their lives were extended by The City of Lahore Corporation (Appointment and Extension of Term of Counsellors) Act, 1949, the West Punjab District Boards (Appointment of Members) Act, 1949, and the West Punjab Small Town (Appointment of Members) Act, 1949.

3. EAST BENGAL.

[*Contributed by* H. G. S. Bivar, Esq., P.A.S., *Secretary to the Government of East Bengal.*]

1947

Education.—No. 1 makes provision for the supervision, control and development of education, and efficient functioning of the educational institutions in East Bengal, owing to change due to partition of the Province.

Local Bodies.—The appointment of members of certain district boards and Municipalities in East Bengal which were made and notified by the previous Government of Bengal on the eve of the partition of the Province, and just before the formation of the new Government of East Bengal is regularized by No. II which also cancels the appointments of members from the constituencies allotted to West Bengal by the award of the Boundary Commission.

Agricultural Income-tax.—No. III amends the Bengal Agricultural Income-tax Act, 1944, making provision for the assessment of agricultural Income-tax of persons who derive such income both in East Bengal and West Bengal.

Finance (Sales Tax).—The provisions of the Bengal Finance Sales Tax Act, 1941, to the district of Sylhet formerly a district of the Province of Assam and now a part of East Bengal by the award of the Boundary Commission are extended by No. IV which makes amendments to that Act providing for fixation of tax on the dealer who has his main place of business outside East Bengal and a branch in East Bengal and is registered in West Bengal.

Jute Taxation.—No. V amends the Bengal Raw Jute Taxation Act, 1941, making provision for payment of tax by the Shipper of jute who despatches raw jute to places outside East Bengal.

Municipal.—The Bengal Municipal Act, 1932, is amended by No. VI prescribing the form of oath to the constitution of Pakistan to be made by a Commissioner of Municipality on his election as such.

Local Self-Government.—No. VII amends the Bengal Self-Government Act, 1885, prescribing the form of oath to the constitution of Pakistan to be made by a member of district board or local board on his election as such.

1948

Court-Fees (Extension to Sylhet).—No. I extends the provisions of the Court-Fees Act, 1870, as amended by Bengal Acts from time to time, to the district of Sylhet which forms a part of East Bengal by the award of the Boundary Commission, as the rates in force there (Assam rates) were lower.

The Stamp Duty (Extension to Sylhet).—No. II extends the provisions of the Indian Stamp Act, 1899, as amended by Bengal Acts from time to time, to the district of Sylhet as the Assam rates in force there were lower.

Local Bodies.—District boards of certain divided districts falling in East Bengal by the award of the Boundary Commission are dissolved by No. III and reconstituted by the same Ordinance.

Motor Spirit Sales Taxation (Extension to Sylhet).—No. IV extends the provisions of the Bengal Motor Spirit Sales Taxation Act, 1941, as amended from time to time, to the district of Sylhet forming a part of East Bengal by the award of the Boundary Commission.

The Raw Jute Taxation (Extension to Sylhet).—No. V extends the provision of the Bengal Raw Jute Taxation Act, 1935, as amended from time to time, to the district of Sylhet forming a part of East Bengal by the award of the Boundary Commission.

Amusements Tax.—The provisions of the Bengal Amusements Tax Act, 1922, are extended by No. VI to the district of Sylhet forming a part of East Bengal by the award of the Boundary Commission, repealing the Assam Amusements and Betting Tax Act, 1939 which also repeals a certain section of the Bengal Amusements Tax Act, 1922, unnecessary in the changed circumstances.

Electricity Duty (Extension to Sylhet).—No. VII makes the Bengal Electricity Duty Act, 1935, applicable in Sylhet forming a part of East Bengal by the award of the Boundary Commission.

Eastern Pakistan Ansars.—No. VIII ensures the safety of the State and prepares for the great tasks of social and economic reconstruction ahead by constituting a voluntary force to be known as the Ansars.

Jute Regulation.—The Bengal Jute Regulation Act, 1940, is amended by No. IX prescribing the grant of licence to a grower of jute.

District School Boards.—To dissolve The District School Boards of certain districts divided between East Bengal and West Bengal by the award of the Boundary Commission are dissolved by No. X which empowers the Government to reconstitute the District School Boards in the portions of the divided districts falling in East Bengal.

Nursing Council.—No. XI adapts the Bengal Nurses Act, 1934, consequent on partition of Bengal.

Medical Practitioners' Registration.—A Council of Medical Registration in East Bengal is established by No. XII parallel to that of Bengal under the Bengal Medical Act, 1914.

Registration Fees (Extension to Sylhet).—No. XIII enforces the rates of registration fees prevailing in the other districts of East Bengal to the district of Sylhet forming a part of East Bengal by the award of the Boundary Commission.

Public Safety.—Provision is made for ensuring the public safety and interest and the maintenance of public order by No. XIV.

Maulvi Bazar Municipal Board.—No. XV cancels the appointments of members to the Maulvi Bazar Municipal Board, in the district of Sylhet, which were made and notified by the Government of Assam on the eve of partition of Bengal and immediately before formation of the new Province of East Bengal.

Non-Agricultural Tenancy (Temporary Provisions).—No. XVI extends the operation of and amends the Bengal Non-Agricultural Tenancy (Temporary Provisions), 1940.

Embankment.—The Bengal Embankment Act, 1882, consequent on partition of Bengal is adapted by No. XVII.

Court-Fees.—The Court-Fees Act, 1870, permits payments of fees by Court-Fee Stamps printed in Nasik in Bombay. For want of regular supply of such stamps from Nasik, the Government of East Bengal have permitted a payment of such fees by receipts printed by Government other than by Court-Fee stamps.

Dacca University.—An Ordinance amends the Dacca University Act, 1920, reconstituting the Court of Dacca University in the changed circumstances. A second amendment prescribes the period of office to be held by the members of the Court of the Dacca University.

Bengal Nurses.—Ordinance XX makes provision for the establishment of a Nursing Council for East Bengal on the analogy of the Bengal Nursing Council under the Bengal Nursing Act, 1934.

Transfer of Agriculture Land.—No. XXI aims to restrict the transfer of certain class of agricultural lands in East Bengal.

Jute Dealers Registration.—Ordinance XXIII is to make provisions for the registration of dealers in jute and occupiers of jute-godowns and presses, kutcha and Pucca and collection of statistics in respect of jute trade.

Agricultural Income-tax (Amendment).—A new Act (Act 1) aims to increase the rates of the Agricultural Income-tax under the Bengal Agricultural Income-tax Act, 1944, and to extend the said Act to the district of Sylhet forming a part of East Bengal by the award of the Boundary Commission.

Public Demands Recovery.—Provision is made by statute for facilitating the realization of loans advanced by Government.

The Public Gambling (Amendment) Act, 1948.—Act 1948 makes every kind of wagering or betting including that on horse races punishable under the law.

Local Self-Government (Amendment) Act, 1948.—Incorporates the provisions of the Ordinance as in Serial No. 7 into an Act.

Municipal (Amendment) Act, 1948.—Incorporates the provisions of the Ordinance as in Serial No. 6 into an Act.

The Local Board Elections (Sylhet Emergency Provisions) Act, 1948.—Is for postponement of election of Local Boards in Sylhet due to be held after 1. 4. 48 in order to decide whether such election is to be conducted in the manner prevailing in other districts of the Province of East Bengal.

The East Bengal Cess (Amendment) Act, 1948.—Increases the rates of cesses necessary to meet the needs of the district boards in East Bengal.

The East Bengal (Emergency) Requisition of Property Act, 1948.—Provides for special measures for (emergency) requisition of property in connection with the administration and development of the new Province of East Bengal.

The Criminal Law (East Bengal Amendment) Act, 1948.—Provides for preventing the disposal or concealment of money or other property procured by means of certain offences committed in East Bengal.

The Chittagong Hill-tracts.—By an amending Regulation the Chittagong Hill-tracts are placed under the Inspector-General of Police in place of the Commissioner for Police purposes, to bring it more into line with regular part of the Province.

1949

Alienation of Agricultural Land.—Additional District Judges are empowered with applications for revision under section 10 of the Bengal Alienation of Agricultural Land (Temporary Provisions) Act, 1944, besides the District Judges as already provided in the Act, so as to relieve District Judges of most of the work to which they could devote very little time (Ordinance I, 1949).

Jute Regulation.—Ordinance II is to amend the Bengal Jute Regulation Act, 1940, prescribing the grant of licence to a grower of jute.

The Pakistan Rifles.—In Pre-Pakistan days an armed Police Force known as "the Eastern Frontier Rifles (Bengal Battalion)" was constituted under the Eastern Frontier Rifles (Bengal Battalion) Act, 1920. The present Ordinance (III) renames that force "Eastern Pakistan Rifles" in the changed circumstances.

Calcutta Hackney-Carriages.—An Ordinance (V) brings within the purview of the Calcutta-Hackney Carriage Act, 1919, a cycle rickshaw which is propelled by pedalling.

Preventive Detention.—Provision is made (Ordinances VI, VII) for ensuring the maintenance of public order.

Dacca University.—Ordinance VIII suspends the Dacca University Act, 1920, so far as it relates to the filling up of vacancies in the posts of Professors in Physics, Biology, Mathematics, Economics, Political Science and Reader in Geology and sets up a Selection Committee for the purpose.

Borstal Schools.—Ordinance X extends the provisions of the Bengal Borstal Schools Act, 1928, to the district of Sylhet forming a part of East Bengal by the award of the Boundary Commission.

Land Revenue Sales.—Act II provides for effective measures for realization of arrear cesses due from the estates through the certificate procedure.

Co-operative Societies.—Act III extends the provisions of the Bengal Co-operative Societies Act, 1940, with pre-partition amendments to the district of Sylhet forming a part of East Bengal by the award of the Boundary Commission.

Agricultural Debtors.—To extend to the district of Sylhet the Bengal Agricultural Debtors Act, 1935, with all its amendments with a view to giving greater relief and benefit to the agriculturist population in Sylhet as enjoyed by their brethren in other districts of the Province of East Bengal is the purpose of Act IV.

Local Board Election.—Act V provides for postponement of election of local boards in Sylhet due to be held after 31. 3. 49 in order to decide whether such election is to be conducted in the manner prevailing in other districts of the Province of East Bengal.

Tenancy.—Provision is made to prohibit ejectment of non-occupancy raiyats and under-raiyats from their holdings for non-payment of arrears of rent and to give right to the occupancy-raiyats to use their lands in any manner they like (Act VI).

State Aid to Industries.—Act VII makes amendments to the Bengal State Aid to Industries Act, 1931, regarding the formation of Board of Industries under the Act consequent on partition of Bengal.

Evacuees.—Act VIII makes provisions regarding the administration of properties of evacuees in East Bengal leaving for the Indian Dominion.

Indian Stamp.—Due to non-availability of stamps, Act IX authorizes the registering officers of East Bengal to accept in cash the fees under the Registration Act, 1899, when it is less than Rs. 100/- and when it is Rs. 100/- and more by chalan duty receipted by the Treasury.

Amusements Tax.—The general rate of entertainments tax is 25 per cent. of all payments for admission to any entertainments under the Bengal Amusements Tax Act, 1922, but the tax was hitherto levied at concessional rate. The present Act (X) withdraws the concession and extends the said Bengal Act to the district of Sylhet forming a part of East Bengal by the award of the Boundary Commission.

Electricity Duty.—The Bengal Electricity Duty Act, 1935, is extended by Act XI to the district of Sylhet where no electricity duty was levied before the division of India.

Land Revenue, Rent and Cess (Apportionment).—Act XX prescribes for apportionment and fixation of land revenues, rents and cesses in respect of portions of estates, tenures and holdings situated in East Bengal, the other portions of the same being fallen in West Bengal.

Money-Lenders.—Act XXI extends the provisions of the Bengal Money-Lenders Act, 1940, to the district of Sylhet forming a part of East Bengal by the award of the Boundary Commission.

Non-Agricultural Tenancy.—Act XXIII provides better security for the rights of the non-agricultural tenants.

Chittagong Hill-Tracts Laws.—A Regulation extends the operation of the Bengal Muhammadan Marriages and Divorces Registration Act, 1876, to the partially excluded areas of the Chittagong Hill-tracts under section 92(2) of the Government of India Act, 1935, as adapted.

4. SIND.

[*Contributed by* Shaikh Mohd Omer.]

Acts Passed during 1948—22.

Sind Legislative Assembly held one sitting in the month of March 1948.

General.—Act No. VII of 1948 amends the Karachi Joint Water Board Act, 1943, Act No. XIII of 1948 provides for the control of the rates chargeable in hotels and lodging houses in Karachi and the reservation of accommodation therein. Act No. XIV of 1948 amends the Motor Vehicles Act, 1939, in its application to Province of Sind. Act No. XV of 1948 provides for the maintenance of Law Order and the services essential to the life of the community. Act No. XVII of 1948 makes certain amendments in the Sind Rent restriction Act, 1947. Act No. XXI of 1948 provides for the constitution of Home Guard.

Health.—Act No. II of 1948 provides control of advertisements relating to certain drugs. Act No. IV of 1948 amends the Sind Nurses, Midwives and Health visitors Registration Act, 1939, in certain respects. Act No. VI of 1948 amends the Bombay District Vaccination Act, 1892, in its application to the Province of Sind so as to provide for the vaccination of all persons detained in custody under trial prisoners. Act No. VIII of 1948 provides for the prevention of the spread of contagious diseases among cattles in the Province of Sind.

Judicial.—Act No. XVI of 1948 provides for the constitution of special tribunal for the trial and punishment of certain offences. Act No. XVIII of 1948 amends Sind Frontier Regulation Act, 1892. Act No. XIX of 1948 empowers the Provincial Government to extend the Sind Frontier Regulation 1892 to the Sukkur District. Act No. XX of 1948 empowers the Provincial Government the Sind Frontier Regulation, 1892, to certain areas in Dadu District.

Local Self-Government.—Act No. III of 1948 amends the Bombay District Municipal Act, 1901, and Bombay Municipal Boroughs Act, 1925, in their application to the Province of Sind. Act No. XII of 1948 provides for the establishment of a fund for the equalization of local case.

Land Reveune.—Act No. XI of 1948 amends the Bombay Land Revenue Code, 1870, in its application to the Province of Sind.

Taxation.—Act No. I of 1948 provides for immediate effect being given for a limited period to provisions in Bill relating to the Imposition of increase of taxes. Act No. V of 1948 seeks to vary the Sales Tax, the Entertainment Duty, the Betting Tax, the Tax on sale of Motor Spirit and to levy a cess on Land Revenue. Act No. IX of 1948 provides for the levy of Urban Immovable Property Tax in the Province of Sind.

Education.—The Sind Primary Education (Amendment) Act, 1949, amends certain provisions of the Sind Primary Education Act, 1947, with a view to enforce compulsory primary education in the Province more effectively.

The Sind University (Amendment) Act, 1949, amends certain provisions of the Sind University Act, 1947, provides for the election of the representative of the Sind Legislative Assembly, when the Assembly is not in session, by proxy and extends the term of office of the first Senate till new Senate is duly constituted.

Electricity.—The Sind Electricity Control (Amendment) Act, 1949, empowers the provincial Government to extend the life of the Sind Electricity Control Act, 1947, for one year more, i.e. up to March 25, 1950.

Health.—The Sind Medical Council (Amendment) Act, 1949, extends the term of office of the First Medical Council constituted under the Sind Medical Council Act, 1944, up to June 30, 1949.

Local Self-Government.—The Bombay Local Boards (Sind Amendment) Act, 1949, amends the Bombay Local Boards Act, 1923, in its application to the Province of Sind, with a view to empower the Provincial Government to take over such local board roads as have been improved by the Government under the Post War Development Scheme and bind the local boards to take back the roads when restored to them by the Government.

The Bombay District Municipal and Bombay Village Sanitation (Sind Amendment) Act, 1949, amends the Bombay District Municipal and the Bombay Village Sanitation Acts (Bom. 1 of 1889 and Bom. III of 1901), in their application to the Province of Sind, with a view to empower the Collectors to fill casual vacancies

on the Notified Area Committees and Sanitary Committees by nomination when, due to abnormal conditions, it is not expedient to hold by-elections.

The Sind Local Boards (Extension of Terms) Act, 1949, extends the term of office of the members of local boards in Sind which by reason of the provisions of section 28 of the Bombay Local Boards Act, 1923 (Bom. VI of 1923 in its application to the Province of Sind), would have expired during the year 1949.

Press and Registration of Books.—The Press and Registration of Books (Sind Amendment) Act, 1949, increases the number of copies a printer of any newspaper is required to supply under the Press and Registration of Books Act, 1867, from two to five.

Taxation.—The Sind Finance Act, 1949, enhances the cess on Land Revenue from half-an-anna to three annas on every rupee, doubles the rate of stamp duty prescribed under the Stamp Act, 1899, and varies the tax leviable on the stage carriages and the public carriers. The Sind Road Fund (Amendment) Act, 1949, amends the Sind Road Fund Act, 1947 (Sind VI of 1947) with a view to fix the share of the Sind Road Fund in the tax levied and collected under the Sind Sales of Motor Spirits Taxation Act, 1939 (Sind XX of 1939), to one anna per gallon.

XI. OTHER EASTERN COUNTRIES.

SEYCHELLES.

[*Contributed by* E. B. Simmons, Esq., K.C., *Attorney-General.*]

Twenty-nine Ordinances were enacted in 1949; of these the most important are described below.

Income-tax.—Nos. 1 and 13 amended the Income-tax law in a number of particulars, some more important than others. The amendments in the latter Ordinance were the result of recommendations by a select committee of the Legislative Council. Amongst other changes the definition of "resident" has been altered, the Board of Commissioners has been reconstituted with purely appellate functions and a further appeal to the Supreme Court, the income of religious, charitable and educational institutions and trusts has been further relieved, the wife allowance is now a flat Rs. 800 and the resident's allowance a flat Rs. 400, and tax on interest payable out of Seychelles is deductible at 10 per cent.

Notary's Clerk's Articles.—No. 3 enables war service to be reckoned as part of the qualifying period for which a notary's clerk must serve his articles.

Bronze Coins.—No. 10 authorizes the issue of bronze coins of 5, 2 and 1 cent denominations in place of the Mauritius coins hitherto in circulation.

Legislative Council.—No. 11 validates the first meeting of the newly constituted Legislative Council, held invalid on appeal to the Supreme Court of Mauritius on the ground that one of the two nominated unofficial members had not been nominated at the date of the meeting.

Pensions for Government Servants.—No. 12 establishes a Widows' and Orphans Pensions Fund for Government servants, in the usual colonial forms.

Copra.—No. 14 replaces the Copra Cess Ordinance of 1948. It establishes a fund, fed by an export levy, to be used for stabilizing the price of copra by paying export subsidies. The fund will be administered by a Board with a majority elected by producers. The amount of subsidy is limited to approximately 20 per cent. of the fund in any one year.

Harbour Dues.—No. 16 repeals the old Harbour Dues Ordinance, enabling dues to be prescribed by regulation instead of amending Ordinance.

Shipchandlers.—No. 19 empowers the Treasurer to refuse licenses to shipchandlers, bumboat keepers, etc., who have been convicted of offences connected with their trade.

Family Councils.—No. 20 enables the Governor to appoint any person as President of Family Councils. The Attorney-General has hitherto been *ex officio* President.

Titles of Officers and Departments.—No. 21 empowers the Governor to change the titles of officers and departments without a special Ordinance

Outlying Islands.—No. 23 extends the criminal jurisdiction of peace officers on Outlying Islands.

Jurisdiction of Police Magistrate.—No. 24 extends the jurisdiction of the Police Magistrate from 2 months and Rs. 250 to 6 months and Rs. 1,000 where the defendant pleads guilty.

Incest.—No. 25 makes incest a punishable offence.

Perjury.—No. 26 repeals the power of the court to punish perjury summarily and without trial.

Controlled Rent.—No. 29 enables the landlord to add increases in property tax to controlled rent.

XII. SOUTH ATLANTIC.

BRITISH GUIANA.

[*Contributed by* A. C. Brazao, Esq., *Solicitor-General.*]

Thirty-two Ordinances were enacted during the year 1949. The most important are summarized below.

Income-tax.—No. 1 increases family allowances in ascertaining the chargeable income of a person resident in the colony, and makes better provision for deduction and accounting for tax on interest payable to a non-resident.

By No. 3, special provision is made in respect of expenditure on exploration and development by companies engaged in gold or diamond mining operation.

Medical Practitioners.—No. 10 extends the facilities of registration as medical practitioners to persons, born or domiciled in the colony, holding diplomas approved by the American or Canadian Medical Association. Hitherto only persons who were registered or entitled to be registered under the Acts of the United Kingdom were registrable.

Livestock.—No. 13 seeks to improve the quality of livestock in the colony by enacting that only animals approved by a qualified authority should be used for breeding purposes.

Factories.—No. 14 amends the Factories Ordinance, 1947 (No. 30), with respect to its application to machinery and the repairing of ships, the power of the Commissioner of Labour to enter and inspect ships and in certain other minor respects.

British Nationality.—Following the enactment of the British Nationality Act, 1948 (11 and 12 Geo. VI, C.56), provision is made by No. 22 for its enforcement in the colony. Section 36 of the Criminal Justice Act, 1925 (15 and 16 Geo. V, C. 86), has been adapted for offences in relation to passports. No. 21 repeals the local Naturalization Ordinance (C.213).

Criminal Law.—No. 23 provides for the summary punishment of a person who gives false information to a public servant with intent to cause such public servant to use his lawful power to the injury of another person. The wilful making of inconsistent or contradictory statements on oath in judicial proceedings is made punishable as a misdemeanour.

Municipal Law.—No. 25 consolidates and amends the law relating to the Town Council of New Amsterdam, British Guiana's second town.

Law Revision.—No. 26 makes the necessary provisions for the preparation of a revised edition of the Laws of British Guiana. The edition in current use dates from 1930.

Patents and Designs.—No. 29 amends the Patents, Designs, Copyright and Trade Marks (Emergency) Ordinance, 1940 (No. 16) with respect to the powers of the Registrar to extend time limits. The amendment is similar to that effected by section 6 of the Patents and Designs Act, 1946 (9 and 10 Geo. VI, C.44).

No. 30 amends the Patents and Designs Ordinance, 1937 (No. 9), to bring the local legislation on the subject into line with that of the United Kingdom.

XIII. WEST INDIES.

1. BAHAMAS.

[*Contributed by* J. S. R. Cole, Esq., *Attorney-General.*]

Of the twenty-one Acts passed by the Legislature during 1949, the more important are mentioned below.

Finance.—The Emergency Tax Amendment Act (No. 2 of 1949) adds to the existing list of goods exempted from Emergency Tax upon importation into the Colony, the following:

> Ale and Beer, Porter and Stout, Pure Alcohol, Cordials and Liqueurs of all kinds and Wines of all kinds.

The Prison Loan Act (No. 4 of 1949) empowers the Governor in Council to raise a loan of £68,000 locally by the issue of debentures for the purpose of defraying expenses in connection with the construction of a new prison in the Island of New Providence.

Salaries and Pensions.—The Public Officers Devaluation Allowance Act (No. 19 of 1949) provides for a temporary increase in the salaries of Public Officers and Pensioners. This increase was made necessary by the sudden rise in the cost of living due to the devaluation of the pound sterling. Both Acts are of temporary duration only.

2. LEEWARD ISLANDS.

[*Contributed by* The Attorney-General.]

Twenty Federal Acts were passed by the General Legislative Council of the Leeward Islands during the year 1949. Of these the most important were:

Matrimonial Causes.—No. 1 extends the jurisdiction of the Supreme Court in the Colony to grant decrees in proceedings for divorce or nullity of marriage in respect of persons not domiciled in the Colony where the marriage was celebrated on or after September 3, 1939, but before the "appointed day" i.e. June 1, 1950.

Aliens.—The Aliens' Land Holding Regulation (No. 3) extends the definition of "alien" in the Principal Act (Cap. 76) to include the Government of any foreign state thereby permitting such Government to apply for a licence to own land in the Colony for consular use.

Nationality.—The British Nationality (Fees Offences and Penalties) Act (No. 5) prescribes the fees that are payable by applicants for naturalization and registration as citizens of the United Kingdom and Colonies and the penalties which may be imposed for certain offences against the British Nationality Act, 1948 (Imperial) when committed in the Colony.

Insurance.—The Third Parties (Rights against Insurers) Act (No. 6) confers on third parties rights against insurers of third party risks in the event of the insured becoming insolvent and in certain other events.

Corporal Punishment.—No. 8 abolishes the infliction of corporal punishment by Courts of Law and other authorities except in the case of offences committed by juveniles and certain offences against prison discipline.

Guardianship of Infants.—No. 9 amends the principal Act (Cap. 90), by providing that the rights of the mother of an infant as respects custody, care, guardianship, etc., shall be equal to that of the father but that the welfare of the infant should in all cases be the paramount consideration in dealing with such cases. It also amends the laws relating to marriage by providing who are the persons whose consent are necessary to the marriage of an infant whether legitimate or illegitimate.

Juveniles.—No. 10 provides for the care and protection of Juveniles, the trial and treatment of Juvenile offenders and other matters connected therewith and relating thereto.

Coroners.—No. 11 consolidates the law relating to Coroners with modern provisions and provides among other things for the holding of an inquest by a Coroner without a Jury in certain cases.

Sale of Goods.—No. 12 enacts and introduces into the Colony legislation relating to the sale of goods in identical terms as the imperial legislation on the subject.

Telecommunication.—No. 13 repeals the laws in force in the various Presidencies of the Colony dealing with wireless telegraphy and consolidates the same in keeping with the provisions of international Conventions.

Trade Unions.—No. 17 provides for the period during which the accounts of Trade Unions shall be audited, the statement of accounts and the returns to be made by the Treasurer to the Registrar and the manner in which members may object to contributing to the political fund of a Trade Union.

Larceny (Protection of Praedial Produce).—No. 18 seeks to provide measures for the eradication of larceny of praedial production and gives power of arrest to owners, overseers, etc., of plantations on which such production is cultivated in cases where persons are found thereon or on the adjoining roadway, carrying or conveying such produce.

(i). ANTIGUA.

In the Presidency of Antigua 12 Ordinances were passed by the Legislative Council during the year 1949. Of these the most important were:

Minerals. —No.1 vests in the Crown all minerals as therein defined and prohibits the mining of such minerals except under the authority of a licence granted by the Governor in Council. Provision is made for the payment of compensation to the owner of the land and for the payment of royalties to the Government by the holder of a mining licence.

Customs Surcharge.—No. 2 imposes a surcharge of 30 per cent. and 10 per cent. respectively on the customs duties imposed on certain goods when imported into the Presidency.

Petroleum.—No. 5 makes provision for the prohibition of importation of volatile petroleum or of any particular variety thereof, for the importation sale, safety and storage of petroleum only in accordance with the provisions of the Ordinance.

Explosives.—No. 10 makes provision for the prohibition either absolutely or subject to conditions or restrictions, of the manufacture, keeping, importation and sale of any explosive and provides for the storage of explosives when imported into the Presidency.

(ii). ST. CHRISTOPHER AND NEVIS.

In the Presidency of St. Christopher and Nevis 20 Ordinances were passed by the Legislative Council during the year 1949. Of these the most important were:

General Local Loan.—No. 6 declares the terms and conditions applicable to local loans authorized to be raised under the authority of an Ordinance of the

Presidency, and that the same shall be so raised by the issue of debentures under this Ordinance.

Land Settlement.—No. 8 establishes Land Settlement and Development Boards for the three islands forming the Presidency which said Boards are each constituted a body corporate and defines the powers and duties and functions of such Boards.

Hospitals and Poor Relief.—No. 10 provides for the proper management of the public hospitals of the Presidency and establishes a system of relief for poor and destitute persons.

Electricity Supply.—No. 12 makes provision for the raising of a loan of $480,000 for generating and supplying electricity to the island of St. Christopher and Nevis.

Customs Surcharge.—No. 14 imposes a surcharge of 20 per cent. and 12½ per cent. respectively on the customs duties imposed on certain goods when imported into the Presidency.

Hotels Aid.—No. 18 aims at encouraging an hotel industry in the Presidency by granting certain relief in respect of customs duties, pier dues and Income-tax to persons who expend monies upon the construction or equipment of Hotels in the Presidency.

Vehicles and Road Traffic.—No. 20 consolidates the traffic laws and provides for the regulation of traffic on roads, the licensing and taxation of vehicles and among other things for the international circulation of motor vehicles.

(iii). MONTSERRAT.

In the Presidency of Montserrat 8 Ordinances were passed by the Legislative Council during the year 1949. The most important of these were:

The Rum Duty Ordinance (No. 1) and the Liquor Licence Ordinance (No. 2) respectively increase the duty on rum manufactured in the Presidency and licences for the sale of intoxicating liquors.

The Milk Ordinance (No. 8) prohibits the sale of adulterated and unwholesome milk.

(iv). VIRGIN ISLANDS.

In the Presidency of the Virgin Islands 4 Ordinances were made for that Presidency during the year 1949. The most important of these were:

The Denominational School Teachers Pension Ordinance (No. 2) which amends the principal Ordinance No. 1 of 1931 and brings the provisions of that Ordinance more into line with a Model Pensions Ordinance prepared by the Secretary of State which is being adopted by most Colonial Governments.

The Diplomatic Privileges Ordinance (No. 4) which gives competency to the General Legislative Council of the Colony to legislate for the Presidency in so far as it may be necessary to implement the Convention on the privileges and immunities of the United Nations adopted by the General Assembly of the United Nations on February 13, 1946.

3. WINDWARD ISLANDS.

(i) GRENADA.

[*Contributed by* The Hon. C. F. Henville, Esq., *Attorney-General.*]

During the year 1949, 18 Ordinances were passed.

Forest, Soil and Water Conservation.—Ordinance No. 1 gives effect to the declared policy of Government which aims at the preservation of forests on sites unsuited to permanent and conservative agriculture in order to preserve water

supplies, regulate streamflow, prevent destructive floods and minimize soil erosion. Provision is made for the appointment of a Chief Forest Officer and staff to carry out the objects of the law. The Ordinance follows similar legislation in force in the Colony of Trinidad. Ordinances of a like nature are already in force in the other Colonies of the Windward Group.

Penicillin and Sulphonamide (Control).—Ordinance No. 3 regulates and controls the sale and supply of Penicillin, Sulphonamide and other similar substances.

Nationality and Naturalization.—The local legislation on the naturalization of aliens is repealed (No. 6); it ceased to be applicable since the law in this Colony dealing with the grant of certificates of naturalization is contained in the British Nationality Act, 1948 (11 and 12 Geo. VI, c. 56) which came into force on January 1, 1949. The grant of local certificates of naturalization by the Governor is no longer permissible, but any person who, immediately before the commencement of the Imperial Act, enjoyed in the Colony the privileges of naturalization within the Colony is deemed to have become a British subject.

Another Ordinance (No. 8) deals with offences, imposes penalties and fixes fees to be collected under the British Nationality Act, 1948 (11 and 12 Geo. VI, c. 56) and the Regulations made thereunder. The Ordinance is based on the provisions of section 28 of the above Act and Regulation 19 and the Seventh Schedule of the Regulations made thereunder.

Rent Restriction.—Restrictions are imposed by No. 14 upon the increase of rent of dwelling houses and the right to recover possession thereof. The Ordinance follows the lines of similar legislation in force in the Colony of Saint Vincent as recommended by a Select Committee of the Legislative Council.

(ii) SAINT LUCIA.

[*Contributed by* The Hon. Keith Allerme, Esq., *Crown Attorney*.]

Thirty-one Ordinances were passed in 1949 and 72 Statutory Rules and Orders, all published together in the volume of St. Lucia Laws for 1949.

Perhaps the most significant legislation of the year was that which made provision for the reconstruction of Castries made necessary by the 1948 fire.

Firstly the Castries (Commissioner for Reconstruction) Ordinance (No. 1 of 1949) constituted the office of Commissioner for Reconstruction, prescribed his powers and duties and conferred on him the functions of the Central Housing and Planning Authority in respect of the area to be redeveloped. These powers include the powers exerciseable by virtue of the Town and Country Planning Ordinance, 1945, and the Slum Clearance and Housing Ordinance, 1945. Following this the Castries Reconstruction Loan Ordinance (No. 9 of 1949) provided for the raising of a loan to be expended partly by relending to private persons whose buildings were destroyed by the fire and partly in the financing of Sewerage and Housing Schemes. The Ordinance was amended by Ordinance No. 26 of 1949.

The Loan (Bonded Warehouse) Ordinance (No. 12 of 1949) was also noteworthy.

Other Ordinances affecting Castries were the Castries Town Board (Amendment) Ordinance (No. 6 of 1949) which enabled the Board to impose a uniform tax on empty lots in lieu of the tax based on rental values. There was a further amendment Ordinance No. 30 of 1949, which affected the constitution of the Board increasing its composition from eight to nine members and providing for a rotation of one-third of the members each year. The Ordinance also introduced adult suffrage in municipal elections preserving a literary test namely the ability to sign the notice of claim to be registered.

Competing for prominence with the Castries legislation must be mentioned the Land and House Tax Ordinance (No. 29 of 1949) which after a debate

which off and on has exercised the Council over a period of nearly fifty years introduced land tax. The Ordinance does not go into refinements but establishes a principle which was until then firmly resisted and passed even then not without protest.

Worthy of special mention also was the Fishing Boat Loans Ordinance (No. 11 of 1949) which enables the Governor in Council to set up machinery for assisting the fishing industry.

The Workmen's Compensation (Amendment) Ordinance (No. 7 of 1949) increased the amount of Workmen's Compensation payable under the principal Ordinance.

The Boy Scouts' Association Ordinance (No. 21 of 1949) seeks to further and protect the activities and interests of the Boy Scouts' Association in the Colony.

The Administration of Successions (Civil Code) (Amendment) Ordinance (No. 19 of 1949) seeks to provide for the vesting of the movable and immovable property of a deceased person in his personal representative, "for the better administration of successions and for other purposes connected therewith." This Ordinance is capable of making the first major inroad into the Civil Law of St. Lucia which has till now strictly adhered to the French Civil Law.

Among the variety of amending legislation and the more numerous subsidiary legislation should be mentioned in conclusion Rules and Orders giving effect to the 1948 Income-tax Ordinance and Double Taxation Relief Procedure.

(iii) ST. VINCENT.

[*Contributed by* P. Cecil Lewis, Esq., *Crown Attorney*.]

1948

Thirty-two Ordinances were passed during the year. The most important of these were:

The Loan Ordinance (No. 6) authorizes the raising of a loan of $19,56,000 for the purpose of the development of the Colony.

The Government Housing Loans Ordinance (No. 8) provides for the making of loans to persons in the employment of government and of certain scheduled organizations to assist them in acquiring, providing or improving housing accommodation for themselves and their families, and in discharging encumbrances and charges thereon.

The Hayward Agricultural Credit Bank Ordinance (No. 13) creates a body corporate known as the Hayward Agricultural Credit Bank in pursuance of a term in the will of the late H. L. W. Hayward. He left the major portion of his real and personal estate upon trust for the formation of a bank whose purpose is primarily to assist the planters and agriculturists of the Colony by means of loans at low rates of interest.

The Pensions Ordinance (No. 16) repeals the old Pensions Ordinance, Chapter 136, which ceases to apply to officers except in certain specified cases. A new feature of this Ordinance is the provision whereby an officer may retire at any time after attaining the age of fifty years with the approval of the Secretary of State.

The Village Councils Ordinance (No. 21) extends the principle of local government hitherto confined to urban districts only to such villages as the Governor may in his discretion from time to time select.

Income-tax law is consolidated and amended by a fresh Ordinance (No. 23). It empowers the Governor in Council to make arrangements with other territories in order to give relief to a taxpayer who is liable to taxation in the Colony and in other territories with which the arrangements have been made.

The Sugar Export Cess Ordinance (No. 32) authorises the levy of a cess on sugar exported from the Colony in order to establish the Sugar Industry Price

Stabilisation Fund, the Sugar Industry Rehabilitation Fund, and the Sugar Industry Labour Welfare Fund for furthering the interests of the sugar industry and the workers engaged therein.

1949

Twenty-seven Ordinances were passed during 1949, several of which were amending Ordinances.

The following Ordinances merit attention:

The Maintenance Ordinance (No. 1) amends and consolidates the law relating to the maintenance of parents, children and married women. It provides for the appointment of a collecting officer whose duty is to receive all payments directed to be made to him under the Ordinance, and also lays down machinery for the reciprocal enforcement of maintenance orders.

The Roads Ordinance (No. 11) repeals the Highway Ordinance, Chapter 147, and creates a new corporate body called the Central Road Authority with responsibility for the maintenance and control of the roads of the Colony. The Superintendent of Works is Chairman and Chief Executive Officer of the Authority.

The Quarries Ordinance (No. 12) is intended to regulate and control the working of quarries in the Colony. This is done by means of licences.

The Radio Active Minerals Ordinance (No. 14) regulates and controls prospecting and mining for radio-active minerals and the export thereof. Any one proposing to prospect or mine for minerals (as described in the Schedule) must first obtain a licence from the Governor.

4. TRINIDAD AND TOBAGO.

[*Contributed by* H. W. Wilson, Esq., *Attorney-General.*]

During the year 1949, 40 Ordinances were enacted of which particulars of the more important are as follows:

Civil Courts.—Under the previous law a defendant to an action in a Petty Civil Court could, without bringing a cross-action, claim to have any amount not exceeding $240 due to him by the plaintiff in respect of any debt or liquidated demand taken into account on the hearing of the action and judgment given for the difference between the amount of the plaintiff's claim and his in favour of the party found on adjudication to be entitled thereto. Section 2 of the Petty Civil Courts (Amendment) Ordinance, extends the defendant's right to recover cross-claims for unliquidated damages not exceeding $240. Section 3 constitutes the rule-making authority under the Judicature Ordinance the rule-making authority under the Petty Civil Courts Ordinance, i.e., the Chief Justice, together with any four of the following persons, namely, a Puisne Judge of the Supreme Court from time to time nominated by the Chief Justice, the Attorney-General or any other Officer of his Department nominated by the Attorney-General, the Registrar of the Supreme Court, and one practising barrister nominated by the Bar Council and one practising solicitor nominated by the Trinidad Incorporated Law Society.

Library Facilities.—The Carnegie Corporation made a grant to the Government for the establishment on modern lines of a Central Library service for Trinidad and Tobago and for the extension of this service to other British West Indian colonies of the eastern group. This service began in 1941 and was operated for three years. A substantial portion of the grant was expended on library services for the Colony and the Government undertook to maintain these services after the Carnegie grant came to an end. The British Council is continuing to develop the library services which have been provided for the other British West Indian colonies under the grant.

The Central Library of Trinidad and Tobago Ordinance, provides for the establishment and maintenance by Government of the Central Library service.

The provisions of the Ordinance do not affect the existing provisions of the Public Library Ordinance, Ch. 42, No. 2, which relates to the Port-of-Spain Library, or of the Carnegie Free Library Ordinance, Ch. 42, No. 3, which relates to the San Fernando Public Library.

Bee-keeping.—Ordinance No. 7 transfers the control of bee-keeping in the Colony from the Agricultural Society to the Department of Agriculture.

Naturalization.—Ordinance No. 8, repeals the Local Naturalization Ordinance, Ch. 21, No. 2, of the 1940 Revised Edition of the Laws.

Licensing of Vehicles.—The Motor Vehicles and Road Traffic (Amendment) Ordinance (No. 10) gives power to the Licensing Authority to grant permission for a goods vehicle to be used for the conveyance of passengers. The object of the Ordinance is to permit the licensing authority to grant permission to individuals who send their fish or market produce to Port-of-Spain and San Fernando by goods vehicles for sale in the markets to travel with their goods.

Aliens.—Ordinance No. 13 enables the Government of any foreign State to own real property in the Colony for Consular use.

Limeoil.—Ordinance No. 14 restricts the number of manufactories for the manufacture of limeoil. It was enacted on the suggestion of the Trinidad and Tobago Limes Association Ltd., which expressed the view that the erection of new distilleries other than by producers of limes would so seriously reduce the amount of limes to be handled by each of the existing manufactories that none would be able to operate successfully.

Education.—Under the previous law religious instruction could be given in assisted schools only at the beginning or end or both of a meeting of a school and did not form part of the school curriculum controlled by the Department of Education. An amending Ordinance (No. 17) added religious instruction to the curriculum of every assisted school and authorized the Director of Education to approve the time table relating to such instruction. Provision is made in the Ordinance for the protection of religious freedom to all individuals.

Lotteries.—The Gambling (Amendment) Ordinance reduced the rates of duty imposed by the Gambling (Amendment) Ordinance, 1947, on lotteries organized and controlled by the Trinidad Turf Club and by racing clubs and associations recognized by the Trinidad Turf Club.

After the Ordinance of 1947 came into operation, there was a considerable decrease in the number of tickets sold in connection with these lotteries.

It was anticipated that the proposed reduction in the rate of tax would stimulate sales and that there would in consequence be little, if any, loss of revenue.

Wages Councils.—Ordinance No. 20 is based on the United Kingdom Wages Councils Act of 1945, and provides for the establishment of Wages Councils to operate in any industry in which the Governor in Council is satisfied that no adequate machinery exists for the effective regulation of the remuneration of the workers in that industry.

Law Revision.—Ordinance No. 23 arranges for the preparation and publication of a Revised Edition of the Ordinances of the Colony. It also provides for the publication of a Revised Edition of the subsidiary legislation of the Colony. The last Edition of the Revised Ordinances contains the ordinances of the Colony in force on the first day of January, 1941. No Revised Edition of the subsidiary laws of the Colony has ever been published.

United States Bases.—Owing to the discontinuance of the United States Waller Field Air Base, Ordinance 26 is enacted to control the purchase from the United States Authorities and United States personnel stationed at or employed on the United States Bases of goods, effects and materials which cannot be imported direct from the United States without a licence and on which no customs duties have been paid on importation in accordance with the Agreement between the Government of the United Kingdom and the United States of America relating to the Bases leased to the United States of America.

Rating and Valuation.—The object of Ordinance No. 28 is to give any ratepayer of the Borough of Arima who is dissatisfied with an assessment on rateable premises made by a Magistrate on an appeal from the decision of the Council of the Borough fixing any valuation in respect thereof a further right of appeal, and the Council a right of appeal, to the Full Court. Similar provisions already obtain in the cases of the Borough of San Fernando and the City of Port-of-Spain.

Port-of-Spain.—Ordinance No. 32 re-defines the boundaries of the City of Port-of-Spain in the manner agreed upon between the City Council and the Government. Its effect was to bring within the boundaries of the City certain areas previously deemed by Government to be outside the boundaries although it was maintained by the City Council that they were within the boundaries.

Oil.—Ordinance No. 33 applies the Oil-bearing Sands (Water Control) Ordinance to oil-mining operations in marine areas.

Ordinance No. 34 applies certain provisions of the Oil Mining and Refining Ordinance, 1943, to oilfields in marine areas.

Ordinance No. 35 applies the Oilfield Fires Control Ordinance to oil-mining operations in marine areas.

Rent Restriction.—The main object of Ordinance No. 38 is to confer jurisdiction on every Rent Restriction Board to determine whether or not the relationship of landlord and tenant exists in any particular case and the terms and conditions and other circumstances affecting tenants. A decision of the Full Court had been previously given to the effect that Rent Restriction Boards had no such jurisdiction.

The main object of the Rents of Small Agricultural Holdings (Amendment) Ordinance (No. 39) is to confer on Agricultural Rent Boards the same jurisdiction as is conferred on Rent Restriction Boards by Ordinance No. 38 of 1949.

XIV. MEDITERRANEAN.

1. CYPRUS.

[*Contributed by* CRITON G. TORNARITIS, ESQ., *Solicitor-General.*]

TWENTY-NINE Laws were enacted during 1949, of which 9 were consolidating, 15 amending and 5 relating to new subjects.

Owing to the reprint and consolidation of the Cyprus Laws in force on March 31, 1949, now about to be published, and the desirability of including therein in the form of comprehensive Laws locally enacted legislation which hitherto was covered by Orders of His Majesty in Council it was found necessary to enact the following 7 Laws which incorporate in a consolidated form provisions existing in Orders of His Majesty in Council:

(a) The Courts of Justice (Supplementary Provisions) Law (No. 7).
(b) The Moslem Religious Tribunal Law (No. 8).
(c) The Evcaf Law (No. 9).
(d) The Pensions Law (No. 10).
(e) Exportation of Arms (Prohibition) Law (No. 11).
(f) The Criminal Code (Continuance of Provisions) Law (No. 12).
(g) The Currency Law (No. 13).

The opportunity of the reprint was also taken to enact two more consolidating and amending Laws:

The Aliens and Immigration Law.—No. 19, whereby all the existing provisions were consolidated in a re-arranged form, administrative matter being omitted from the Law and included in the Regulations made thereunder; and

The Trade Unions Law.—No. 3, by which, apart from minor amendments rendered necessary by the experience gained in the administration of the previous Law for seven years, the provisions of the latter relating to illegal strikes and

lock-outs and the prevention of intimidation were left out in consequence of the enactment in the United Kingdom of the Trade Disputes and Trade Unions Act, 1946.

Of the five Laws relating to new subjects the more important are the following:

(a) The Companies (Limited by Guarantee) Law.—No. 25, which provides for the formation and incorporation of this sort of companies so far unknown to our Law;

(b) The Irrigation (Private Water Associations) Law.—No. 26, enabling the formation of irrigation associations by owners of waters held in common without the surrender by any one of them to the association of his own individual right through the same process followed for the formation of an irrigation division.

(c) The British Nationality (Offences and Fees) Law.—No. 23, making provision for certain offences and the imposition of recovery of fees in connection with the registration of citizenship and the grant of certificate of British nationality in consequence of the application to Cyprus of the British Nationality Act, 1948.

Of the amending Laws the following should be noted:

(a) The Advocates Law.—No. 3, by which certain judicial officers (judges of the Supreme Court and of the District Court) are restrained from practising as advocates after retiring from public service in Cyprus whilst holding a judicial office (section 12(a)) and disciplinary proceedings against advocates were put on a better basis (section 11);

(b) Criminal Law.—The Criminal Code, which continues to have the force of a Law by virtue of the Law mentioned above (paragraph 2), has been amended by two amending Laws: No. 17, whereby seditious conspiracy and libel were made a felony and the punishment therefor was increased to five years (section 45) and the seditious intention under section 50 was enlarged by the addition thereto of another paragraph providing for an intention to raise feelings of ill-will and hostility between two communities or classes of the population, and No. 27 by which section 60 providing for the possession of documents having a seditious intention and the publication of propaganda of an unlawful association has been recast so as not to contain overlapping provisions with that of section 45.

(c) The Game and Wild Birds (Amendment) Law.—(No. 18). The Game Laws were strengthened by two main innovations introduced by this Law, whereby it was provided that:

(*i*) subject to certain exceptions, no game licence will be issued to any person who holds any licence during the immediate preceding season, unless he satisfies the Commissioner that during such season he had killed no less than six crows or magpies;

(*ii*) no person shall sell or otherwise dispose of any game to any member of the public unless he is the holder of a Dealer's licence and no holder shall sell any game except to a Dealer in Game.

Both these provisions were made for the purpose of preservation of game.

(d) Government Waterworks (Amendment) Law.—No. 24, which provides for an alternative method of ascertaining and determining private water rights in connection with the practicability and expediency of contemplated Government waterworks by giving power to the Water Engineer to hold an enquiry for this purpose and report to the Governor.

(e) Partnership (Amendment) Law.—No. 16, making provision for registration of dissolution of partnerships in cases where the partnership is dissolved otherwise than by effluxion of time or determination of the single adventure for which the partnership has been formed.

(f) Rent Restriction.—The Increase of Rent Restriction (Amendment) Law (No. 28) makes provision enabling a landlord to recover possession of premises

which were originally let to a tenant in consequence of his employment when the tenant's employment comes to an end and for early relief in such a case by the extension to proceedings taken for this purpose of the summary procedure provided by the Recovery of Possession of Small Holdings Law, 1895.

2. GIBRALTAR.

[*Contributed by* J. B. Pine, Esq., *Assistant Attorney-General.*]

1948.

Forty-three Ordinances were enacted during the year 1948, the more important of which were:

Revision of the Laws.—Ordinance No. 4 appoints the Commissioner (the Attorney-General) for the purposes of the revision and confers upon him all necessary powers, including the power to omit certain enactments from the Revised Edition.

Employment of Women, Young Persons and Children.—Ordinance No. 5 amends existing legislation to give effect to the International Minimum Age (Trimmers and Stokers) Convention, 1921, the Medical Examination of Young Persons (Sea) Convention, 1921, and the Underground Work (Women) Convention, 1935.

Testamentary Dispositions.—Ordinance No. 7 amends existing legislation in order to bring it into line with present U.K. provisions under the Inheritance (Family Provisions) Act, 1938.

Effect of Death in Relation to Causes of Action.—Ordinance No. 8 amends existing legislation in order to bring it into line with existing provisions in U.K. under the Law Reform (Miscellaneous Provisions) Act, 1934.

Law of Evidence.—Ordinance No. 10 amends existing legislation, adopting in Gibraltar the provisions of the Evidence Act, 1938.

Assessment of Damages.—Ordinance No. 11 amends existing legislation by adopting so much of the Fatal Accidents (Damages) Act, 1908, and the Law Reform (Miscellaneous Provisions) Act, 1934, as refers to damages under the Fatal Accidents Act, 1846, and to the awarding of interest on sums recovered by action.

Frustration of Contracts.—Ordinance No. 15 amends existing legislation by adopting the provisions of the Law Reform (Frustrated Contracts) Act, 1948.

Proceedings Against and Contribution Between Tortfeasors.—Ordinance No. 16 amends existing legislation by adopting so much of the Law Reform (Married Women and Tortfeasors) Act, 1935, as refers to joint tortfeasors.

Contributory Negligence.—Ordinance No. 17 amends existing legislation by the adoption of the provisions of the Law Reform (Contributory Negligence) Act, 1945.

Liabilities of Married Women and Their Husbands.—Ordinance No. 19 amends existing legislation by the adoption of so much of the Law Reform (Married Women and Tortfeasors) Act, 1935, as refers to married women.

Regulation of Collections for Charitable Purposes.—Ordinance No. 21 adapts to Gibraltar the provisions of the House to House Collections Act, 1939.

Penalties for Minor Offences.—Ordinance No. 25 amends the Summary Conviction Ordinance and, *inter alia,* provides for the increase of certain penalties imposed thereunder.

Moneylenders.—Ordinance No. 27 amends existing legislation and makes provision for the licensing, etc., of moneylenders.

Diplomatic Privileges.—Ordinance No. 28 makes provision as to privileges, immunities and capacities of international organizations of which His Majesty's Government and Foreign Governments are members.

Animals and Birds.—Ordinance No. 30 amends and consolidates the law relating to animals and birds.

Trade Marks.—Ordinance No. 31 provides for the registration of United Kingdom trade-marks and confers on a registered proprietor the same rights and privileges as he would have in the U.K.

Disposition of Land for Charitable Uses.—Ordinance No. 35 prescribes the terms and conditions under which assurances of land may be made to charitable uses.

Marriage.—Ordinance No. 36 repeals the existing law relating to the solemnization, contraction and registration of marriages and makes new provision therefor.

Nurses.—Ordinance No. 37 provides for the establishment of a Nursing Board and the maintenance of a register of nurses for the sick.

Pharmacy and Medicines.—Ordinance No. 39 repeals existing legislation, and is based on the Pharmacy and Medicines Act, 1943. *Inter alia,* it provides for a Pharmaceutical Board, a register of dispensers, etc., and restricts the sale of medicines by unauthorized persons.

1949.

Twenty-six Ordinances were passed during the year 1949, the more important of which were:

Summary Jurisdiction of Supreme Court.—Ordinance No. 1 amends the Supreme Court Order in accordance with recent English legislation.

Maintenance.—Ordinance No. 2 amends existing legislation relating to the maintenance of certain classes of persons.

Prison and Police.—Ordinances Nos. 3 and 5 replace existing legislation by up-to-date legislation based largely on present U.K. law and practice.

Revision of the Laws.—Ordinance No. 7 makes further provision for the revision of the laws which continues apace, and should be completed shortly.

City Council.—Ordinance No. 9 amends the existing City Council Ordinance, bringing it into line with modern municipal law and practice.

Employment Exchanges.—Ordinance No. 10 provides for the establishment of Employment Exchanges, the registration of workmen and other persons, and the regulation of the employment of aliens.

Food and Drugs.—Ordinance No. 11 replaces existing legislation by legislation based on the Food and Drugs Act, 1938, in so far as it is applicable to Gibraltar.

Road Traffic.—Ordinance No. 22 consolidates existing legislation with the addition of certain provisions from the Road Traffic Act, 1930.

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